

“Effective Dates”, line 1, the language “See § 1.883–5T(d) for effective date of” is corrected to read “See § 1.883–5T(d) for the effective date of”.

**LaNita Van Dyke,**

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD09–07–108]

RIN 1625–AA00

**Safety Zone; Petoskey Fireworks Display, Lake Michigan, Petoskey, MI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Lake Michigan near Petoskey, MI. This zone is intended to restrict vessels from a portion of Lake Michigan during the Petoskey August 17, 2007 Fireworks Display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

**DATES:** This rule is effective from 9 p.m. to 11 p.m. on August 17, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD09–07–108 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan (spw), 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** CWO Brad Hinken, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7154.

**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. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective fewer than 30 days after publication in the **Federal**

**Register.** 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.

**Background and Purpose**

This temporary safety zone is necessary to ensure the safety of vessels and spectators from 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 Lake Michigan has determined that fireworks launches proximate to watercraft pose a significant risk to public safety and property. The likely combination of large numbers of recreation 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 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 Petoskey Fireworks Display. The fireworks display will occur between 10 p.m. and 10:30 p.m. on August 17, 2007.

The safety zone will be in effect from between 9 p.m. and 11 p.m. on August 17, 2007. It will encompass all waters of Lake Michigan and Petoskey Harbor, in the vicinity of Bay Front Park, within a 1000-foot radius from the fireworks launch site at position 45°22'39" N, 084°57'30" W. (DATUM: NAD 83).

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

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 Lake Michigan near Petoskey, Michigan, between 9 p.m. and 11 p.m. on August 17, 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 two hours 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 Lake Michigan 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 offered to assist small entities in understanding the rule so that they could 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 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

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 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 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. This event establishes a safety zone; therefore paragraph (34)(g) of the Instruction applies.

A final "Environmental Analysis Check List" and "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. A new temporary section 165.T09-108 is added as follows:

#### § 165.T09-108 Safety zone; Petoskey Fireworks Display, Lake Michigan, Petoskey, MI.

(a) *Location.* The following area is a temporary safety zone: All waters of Lake Michigan and Petoskey Harbor, in the vicinity of Bay Front Park, within a 1000-foot radius from the fireworks launch site at position 45°22'39" N, 084°57'30" W. (DATUM: NAD 83).

(b) *Effective period.* This zone is effective from 9 p.m. to 11 p.m. on August 17, 2007.

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

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his 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.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16. 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 Lake Michigan or his on-scene representative.

Dated: August 3, 2007.

**B.C. Jones,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Sector St. Petersburg, FL. 07-047]

RIN 1625-AA87

#### Security Zone; Tampa Bay, Port of Tampa, Rattlesnake, Big Bend, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary Final Rule.

**SUMMARY:** The Coast Guard is temporarily revising the security zones in the Port of Tampa, East Bay, Rattlesnake, Sunshine Skyway Bridge and Big Bend for the purpose of providing counter-surveillance, intrusion detection and response measures. Entry into these zones will be prohibited unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from July 26, 2007 through January 1, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP 07-047] and are available for inspection or copying at Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, FL 33606-3598 between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lt. Ronaydee Marquez, Waterways Management Division, Sector St. Petersburg, FL (813) 228-2191 Ext 8307.

#### 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. It is necessary to implement these changes immediately to ensure the security of vessels, facilities, and the surrounding areas within the Captain of the Port Sector St. Petersburg Zone. These are temporary modifications of currently existing zones. The Coast Guard does intend to make these changes permanent, and will publish a Notice of Proposed Rulemaking to request public comments before any permanent changes are made.

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

The Maritime Transportation Security Act mandated Area Maritime Security Committee convened a working group to validate the existing security zones within Tampa Bay that were established following the terrorist attacks of September 11, 2001. These existing security zones included some established September 3, 2003, codified in 33 CFR 165.760, and some established September 1, 2003, codified in § 165.764 (68 FR 47852, August 12, 2003).

Using the newly developed Maritime Security Risk Analysis Model tool, the working group evaluated risk to the maritime transportation system (MTS) within Tampa Bay. The results of the risk assessment indicated the need to revise the following established security zones for the purpose of implementing counter-surveillance; and, intrusion detection and response measures:

- § 165.760(a)(1), Rattlesnake, Tampa, FL;
- § 165.760(a)(3), Sunshine Skyway Bridge, Tampa, FL;
- § 165.760(a)(5), Piers, Seawalls, and Facilities, Port of Tampa, Port Sutton and East Bay;
- § 165.760(a)(6), Piers, Seawalls, and Facilities, Port of Tampa, East Bay and the eastern side of Hooker's Point;
- § 165.760(a)(7), Piers, Seawalls, and Facilities, Port of Tampa, on the western side of Hooker's Point; and
- § 165.760(a)(8), Piers, Seawalls, and Facilities, Port of Manatee.

- § 165.764(a)(1), Big Bend, Tampa Bay, Florida zone.

The Security Zones revised include 3 zones within the Port of Tampa (Port Sutton and East Bay; East Bay and the eastern side of Hooker's Point; and the western side of Hooker's Point), Sunshine Skyway Bridge, Rattlesnake and Big Bend and Port of Manatee. At the Port of Tampa, a minor adjustment to the Security Zone boundary was implemented for alignment with protected assets. The East Bay segment of the Security Zone was discontinued. The Security Zone beneath the Sunshine Skyway Bridge was reduced to the size of the navigable channel. The Rattlesnake area Security Zone was expanded shoreward to protect critical facilities. The Big Bend Security Zone was modified to align with the natural barriers around the facility.

##### Discussion of Rule

This temporary rule is establishing the following security zones and will temporarily suspend paragraphs in §§ 165.760 and 165.764 that are being replaced by these new security zones or that are no longer needed. The coordinates are based on North American Datum (NAD) 1983.

- *Rattlesnake, Tampa, FL.* All water from surface to bottom, in Old Tampa Bay east and south of a line commencing at position 27°53.32' N, 082°32.05' W; north to 27°53.36' N, 082°32.05' W, including the fenced area encompassing the Chemical Formulators Chlorine Facility.

- *Sunshine Skyway Bridge, FL.* All waters in Tampa Bay, from surface to bottom, in Cut “A” channel beneath the bridge's main span encompassed by a line connecting the following points: 27°37.30' N, 082°39.38' W to 27°37.13' N, 082°39.26' W; and, the bridge structure columns, base and dolphins. This is specific to the bridge structure and dolphins and does not include waters adjacent to the bridge columns or dolphins outside of the bridge's main span.

- *Piers, seawalls, and facilities, Port of Tampa and Port Sutton, Tampa, FL.* All waters, from surface to bottom, extending 50 yards from the shore, seawall and piers around facilities in Port Sutton within the Port of Tampa encompassed by a line connecting the following points: 27°54.15' N, 082°26.11' W, east northeast to 27°54.19' N, 082°26.00' W, then northeast to 27°54.37' N, 082°25.72' W, closing off all Port Sutton channel, then northerly to 27°54.48' N, 082°25.70' W.

- *Piers, seawalls, and facilities, Port of Tampa, on the western side of Hooker's Point, Tampa, FL.* All waters,