

(c) *Payment of Expenses.* The Air Force has no authority to pay expenses of any kind incurred by or on behalf of an applicant in connection with a correction of military records under 10 U.S.C. 1034 or 1552.

(d) *Form Adopted:* DD Form 149.

**Bao-Anh Trinh,**

*Air Force Federal Register Liaison Officer.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[USCG-2009-0118]

RIN 1625-AA00

#### Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Sault Sainte Marie Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishment of safety zones for annual events in the Captain of the Port Sault Sainte Marie Zone. This proposed rule adds events not previously published in Coast Guard regulations. These safety zones are necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays or other events.

**DATES:** Comments and related materials must reach the Coast Guard on or before August 14, 2009.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2009-0118 using one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call LCDR Christopher Friese, Prevention Dept. Chief, Sector Sault Sainte Marie, 337 Water St, Sault Sainte Marie, MI 49783; 906-635-3220. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2009-0118), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert "USCG-2009-0118" in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand-delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material receiving during

the comment period and may change the rule based on your comments.

##### B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> select the Advanced Docket Search option on the right side of the screen, insert USCG-2009-0118 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### C. Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

#### SUPPLEMENTARY INFORMATION:

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, Coast Guard Sector Sault Sainte Marie at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### Background and Purpose

We propose these safety zones to control vessel traffic within the immediate location of the fireworks launching area during annual fireworks displays.

The Coast Guard proposes to establish 7 permanent Safety Zones in the Captain of the Port Sault Sainte Marie zone. These safety zones are necessary to protect vessels and people from the hazards associated with fireworks displays or other events. Such hazards include obstructions to the waterway that may cause marine casualties and the explosive danger of fireworks and debris falling into the water that may cause death or serious bodily harm.

### Discussion of Proposed Rule

The proposed rule and associated safety zones are necessary to ensure the safety of vessels and people during annual fireworks events in the Captain of the Port Sault Sainte Marie area of responsibility that may pose a hazard to the public.

The proposed safety zones will be enforced only immediately before, during, and after events that pose hazard to the public, and only upon notice by the Captain of the Port.

The Captain of the Port Sault Sainte Marie will notify the public that the zones in this proposal will be enforced by all appropriate means to the affected segments of the public including publication in the **Federal Register**. Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is cancelled.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Sault Sainte Marie, or his designated representative. The Captain of the Port or his designated representative may be contacted via VHF Channel 16.

### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### *Regulatory Planning and Review*

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. The Coast Guard's use of these safety zones will be periodic, of short duration, and designed to minimize the impact on navigable waters. These safety zones will only be enforced immediately before, during, and after the time the events occur. The Coast Guard expects insignificant

adverse impact to mariners from the activation of these safety zones.

#### *Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 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 of operators of vessels intending to transit or anchor in the areas designated as safety zones in subparagraphs (1) through (7) during the dates and times the safety zones are being enforced.

These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons: this proposed rule would be in effect for short periods of time, and only once per year, per zone. The safety zones have been designed to allow traffic to pass safely around the zone whenever possible and vessels will be allowed to pass through the zones with the permission of the Captain of the Port.

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 on them and participate in the rulemaking. 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 LCDR Christopher Friese, Prevention Dept. Chief, Sector Sault Sainte Marie, 337 Water St, Sault Sainte Marie, MI 49783; 906–635–3220. The Coast Guard

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

#### *Collection of Information*

This proposed 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 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. We have analyzed this proposed 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 proposed rule will not result in such expenditure, we nevertheless discuss its effects elsewhere in this preamble.

#### *Taking of Private Property*

This proposed 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 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*

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

#### *Indian Tribal Governments*

The proposed rule does not have tribal implications under Executive

Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. 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 procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

#### *Environment*

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is

available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### **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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. Add section 165.943 to read as follows:

#### **§ 165.943 Safety Zones; Annual Events requiring safety zones in the Captain of the Port Sault Sainte Marie Zone.**

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

(1) *St. Ignace Fireworks, St. Ignace, MI*.

(i) *Location*. All waters of Lake Huron within a 1000-foot radius from the fireworks launch site at the Mill Slip Pier in East Moran Bay, with its center in position: 45°52'25" N; 084°43'20" W. (NAD 83).

(ii) *Enforcement date and time*. July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this section will be enforced July 5; 9 p.m. to 11 p.m.

(2) *Mackinac Island Fireworks, Mackinac Island, MI*.

(i) *Location*. All waters of Lake Huron within a 1000-foot radius from the fireworks launch site off of Bindle Point, with its center in position 45°50'40" N; 084°37'05" W. (NAD 83).

(ii) *Enforcement date and time*. July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this section will be enforced July 5; 9 p.m. to 11 p.m.

(3) *Cedarville Fireworks, Cedarville, MI*.

(i) *Location*. All waters of Lake Huron within a 1000-foot radius from the fireworks launch site in Cedarville Bay, with its center in position 45°59'27" N; 084°21'46" W. (NAD 83).

(ii) *Enforcement date and time*. July 4; 9 p.m. to 11 p.m. If the July 4 fireworks

are cancelled due to inclement weather, then this section will be enforced July 5; 9 p.m. to 11 p.m.

(4) *Sault Sainte Marie Fireworks, Sault Sainte Marie, MI*.

(i) *Location*. All waters of the St. Marys River within a 1000-foot radius from the fireworks launch site at the U.S. Army Corp of Engineers Soo Locks North East Pier, in position 46°30'20" N; 084°20'32" W. (NAD 83).

(ii) *Enforcement date and time*. July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this section will be enforced July 5; 9 p.m. to 11 p.m.

(5) *Marquette Fireworks, Marquette, MI*.

(i) *Location*. All waters of Lake Superior bounded by the arc of a circle with a 1000-foot radius from the fireworks launch site in Marquette Harbor's lower breakwater, with its center in position 46°32'02" N; 087°22'49" W. (NAD 83).

(ii) *Enforcement date and time*. July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this section will be enforced July 5; 9 p.m. to 11 p.m.

(6) *Whitefish Township Fireworks, Paradise, MI*.

(i) *Location*. All waters of Lake Superior within a 1000-foot radius from the fireworks launch site in Whitefish Bay, with its center in position 46°36'53" N; 085°02'24" W. (NAD 83).

(ii) *Enforcement date and time*. July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this section will be enforced July 5; 9 p.m. to 11 p.m.

(7) *Munising Fireworks, Munising, MI*.

(i) *Location*. All waters of Lake Superior within a 1000-foot radius from the fireworks launch site at the end of the Munising City Dock, with its center in position 46°24'83" N; 086°39'14" W. (NAD 83).

(ii) *Enforcement date and time*. July 4; 9 p.m. to 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this section will be enforced July 5; 9 p.m. to 11 p.m.

(b) [Reserved]

Dated: March 4, 2009.

**M.J. Huebschman,**

*Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.*

**Editorial Note:** This document was received in the Office of the Federal Register on July 10, 2009.

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