

the garrison commander is required to obtain an Army radiation permit. For the purposes of this section, an ionizing radiation source is:

(1) Radioactive material used, stored, or possessed under the authority of a specific license issued by the Nuclear Regulatory Commission (NRC) or an Agreement State (10 CFR Parts 30, 40, and 70 or Agreement State equivalent); or

(2) A machine-produced ionizing-radiation source capable of producing an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.1 rem (1 mSv) in 1 hour at 30 centimeters from the ionizing radiation source or from any surface that the radiation penetrates.

(b) A permit is not required for Non-Army entities (including civilian contractors) that use Army licensed radioactive material on Army installations in coordination with the NRC licensee. The Non-Army entity must obtain permission from the Army NRC licensee to use the radioactive materials and be in compliance with all of the Army NRC license conditions prior to beginning work on Army land.

(c) Other Military Departments are exempt from the requirement of subsection (a) to obtain an Army radiation permit; however the garrison Radiation Safety Officer (RSO) must be notified prior to radioactive sources being brought onto the installation.

(d) Applicants will apply by letter with supporting documentation (subsection (e) of this section) to the garrison commander through the appropriate tenant commander or garrison director. Submit the letter so that the garrison commander receives the application at least 30 calendar days before the requested effective date of the permit.

(e) The Army radiation permit application will specify effective date and duration for the Army radiation permit and describe the purposes for which the Army radiation permit is being sought. The application will include: identification of the trained operating personnel who will be responsible for implementation of the activities authorized by the permit and a summary of their professional qualifications; the point-of-contact name and phone number for the application; the applicant's radiation safety Standing Operating Procedures (SOPs); storage provisions when the ionizing radiation source is not in use; and procedures for notifying the garrison of reportable incidents/accidents.

(f) The garrison commander will approve the application only if the

applicant provides evidence to show that one of the following is true:

(1) The applicant possesses a valid NRC license or Department of Energy (DOE) radiological work permit that allows the applicant to use the source in the manner specified in the Army radiation permit application;

(2) The applicant possesses a valid Agreement State license that allows the applicant to use radioactive material in the manner specified in the Army radiation permit application. An applicant operating in areas subject to exclusive Federal jurisdiction (Agreement States Letter SP-96-022) has to file a NRC Form-241, Report of Proposed Activities in Non-Agreement States, with the NRC in accordance with 10 CFR 150.20(b);

(3) For machine-produced ionizing radiation sources, the applicant has an appropriate State authorization that allows the applicant to use the source as specified in the Army radiation permit application and has in place a radiation safety program that complies with Army regulations; or

(4) For overseas installations, the applicant has an appropriate host-nation authorization as necessary that allows the applicant to use the source in the manner specified in the Army radiation permit application and has in place a radiation safety program that complies with applicable Army regulations and Host Nation regulations. Applicants will comply with applicable status-of-forces agreements (SOFAs) and other international agreements.

(g) All Army radiation permits will require applicants to remove all permitted sources from Army property prior to the expiration of the permit and restore all real or personal property of the Army that was modified, altered, or otherwise changed as a result of the applicant's activities to the condition such property was in prior to the effective date of the permit.

(h) An Army radiation permit issued under provisions of this section will be valid for no more than 12 months.

(i) Disposal of radioactive material (byproduct, source or special nuclear) by non-Army agencies on Army property is prohibited. However, the garrison commander may give written authorization for releases of radioactive material to the atmosphere or to the sanitary sewerage system that are in compliance with all applicable Federal, State, and local laws or regulations, including but not limited to, the NRC regulations at 10 CFR Part 20, Subpart K or Agreement State equivalent, and regulations issued by the Army or the Department of Defense, to include compliance with any applicable

requirement to obtain a permit, license, or other authorization, or to submit any information, notification, or report for such release.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0126]

RIN 1625-AA00

#### Safety Zones; Annual Fireworks Events in the Captain of the Port Detroit 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 Detroit 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.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 14, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG-2010-0126 using any one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.
- *Fax:* 202-493-2251.
- *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.
- *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 or e-mail Lieutenant Commander Matt Merriman, Waterways Management Division, U.S. Coast Guard

Sector Detroit, 110 Mount Elliot Ave., Detroit, MI 48207; (313) 568-9508, e-mail [Matthew.W.Merriman@uscg.mil](mailto:Matthew.W.Merriman@uscg.mil). 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-2010-0126, 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 deliver, 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>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert USCG-2010-0126, in the "Keyword" box. Click "Search" 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 received during the comment period and may

change the rule based on your comments.

##### 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>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert USCG-2010-0126, and click "Search." Click the "Open Docket Folder" in the "Actions" 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.

##### Privacy Act

Anyone can search the electronic form of 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).

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting 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

This proposed rule will add additional events not previously published in the regulations found in 33 CFR 165.941, Safety Zones; Annual Fireworks Events in the Captain of the Port Detroit Zone. These safety zones are necessary to protect vessels and people from the hazards associated with fireworks displays. 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 firework events in the Captain of the Port Detroit area of responsibility.

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 Detroit will notify the public that the zones in this proposal are or will be enforced by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). 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 Detroit, or his designated representative. The Captain of the Port or his designated representative may be contacted via VHF Channel 16.

The Coast Guard expects the final rule will be effective less than 30 days after publication in the **Federal Register** because delaying the effective date would be contrary to the public interest due to the need to protect the public from the dangers associated with fireworks displays.

##### 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. Furthermore, these safety zones have been designed to allow vessels to transit unrestricted to portions of the waterways not affected by the safety zones. 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 or operators of vessels intending to transit or anchor in the areas designated as safety zones in subparagraphs (50) through (56) 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 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), 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 rule would affect your small business, organization, or governmental jurisdiction and you have questions

concerning its provisions or options for compliance, please contact Lieutenant Commander Matt Merriman, Waterways Management Division, U.S. Coast Guard Sector Detroit, 110 Mount Elliot Ave., Detroit, MI 48207; (313) 568–9508.

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 would call 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 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would 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 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 rule is not an economically significant rule and would not create an environmental risk to health or risk to

safety that might disproportionately affect children.

#### Indian Tribal Governments

This 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. We invite your comments on how this proposed rule might impact Tribal governments, even if that impact may not constitute a “Tribal implication” under the Order.

#### 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 that 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**. This proposed rule involves establishing safety zones around fireworks displays and is therefore expected to be categorically excluded, under section 2.B.2. Figure 2–1, paragraph 34(g), of the Instruction. Comments on this section will be considered before we make the final decision on whether this proposed rule should be categorically excluded from further environmental review. 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; 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. Amend § 165.941 by adding new paragraphs (a)(50) through (a)(56) to read as follows:

#### § 165.941 Safety Zones; Annual Fireworks Events in the Captain of the Port Detroit Zone.

(a) \* \* \*

(50) Celebrate America Fireworks, Grosse Pointe Farms, MI:

(i) *Location:* All waters of Lake St. Clair within a 500-foot radius of the fireworks launch site located at position 42°22'58" N, 082°53'46" W. (NAD 83). This area is located southeast of the Grosse Point Yacht Club.

(ii) *Expected date:* One evening during the third week in June. The exact dates and times for this event will be determined annually.

(51) Target Fireworks, Detroit, MI:

(i) *Location:* The following three areas are safety zones:

(A) The first safety zone area will encompass all waters of the Detroit River bounded by the arc of a circle with a 900-foot radius with its center in position 42°19'23" N, 083°04'34" W.

(B) The second safety zone area will encompass a portion of the Detroit River bounded on the South by the International Boundary line, on the West by 83°03'30" W, on the North by the City of Detroit shoreline and on the East by 083°01'15" W.

(C) The third safety zone will encompass a portion of the Detroit River bounded on the South by the International Boundary line, on the West by the Ambassador Bridge, on the North by the City of Detroit shoreline, and on the East by the downstream end of Belle Isle. The Captain of the Port Detroit has determined that vessels below 65 feet in length may enter this zone.

(ii) *Expected date:* One evening during the last week in June. The exact dates and times for this event will be determined annually.

(52) Sigma Gamma Association Fireworks, Grosse Pointe Farms, MI:

(i) *Location:* All waters of Lake St. Clair, within a 300-yard radius of the fireworks launch site located at position 42°27' N, 082°52' W (NAD 83) This position is located in the vicinity of Ford's Cove.

(ii) *Expected date:* One evening during the last week in June. The exact dates and times for this event will be determined annually.

(53) Southside Summer Fireworks, Port Huron, MI:

(i) *Location:* All waters of St. Clair River within a 300 yard radius of position 42°57'55" N, 082°25'20" W. This position is located on the shore of the St. Clair River in the vicinity of Oak and 3rd Street, Port Huron, MI. All geographic coordinates are North American Datum of 1983 (NAD 83).

(ii) *Expected date:* One evening during the last week in June. The exact dates and times for this event will be determined annually.

(54) Bay City Fireworks Festival, Bay City, MI:

(i) *Location:* All waters of the Saginaw River near Bay City, MI, from the Veteran's Memorial Bridge, located at position 43°35.8' N; 083°53.6' W, south approximately 1000 yards to the River Walk Pier, located at position 43°35.3' N; 083°53.8' W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(ii) *Expected date:* Three evenings during the first week in July. The exact dates and times for this event will be determined annually.

(55) Toledo 4th of July Fireworks, Toledo, OH:

(i) *Location:* All waters of the Maumee River within a 300-yard radius of the fireworks launch site located at position 41°38'35" N, 083°31'54" W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(ii) *Expected date:* One evening during the first week in July. The exact dates and times for this event will be determined annually.

(56) Toledo Labor Day Fireworks, Toledo, OH:

(i) *Location:* All waters of the Maumee River within a 300-yard radius of the fireworks launch site located at position 41°38'35" N, 083°31'54" W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(ii) *Expected Date:* One evening during the first week in September. The exact dates and times for this event will be determined annually.

\* \* \* \* \*

Dated: March 31, 2010.

**F.M. Midgette,**

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

[FR Doc. 2010–8477 Filed 4–13–10; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2010–0225]

RIN 1625–AA00

#### Safety Zone; Milwaukee Air and Water Show, Milwaukee, Lake Michigan, Milwaukee, WI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone on Lake Michigan near Bradford Beach in Milwaukee, Wisconsin. This zone is intended to restrict vessels from a portion of Lake Michigan due to a large-scale air show and a fireworks display. This proposed safety zone is necessary to protect the surrounding public and their vessels from the hazards associated with a large-scale air show and fireworks display.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 14, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG–2010–0225 using any one of the following methods: