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: Final rule.
SUMMARY: The Coast Guard is amending rule 33 CFR 165.941, establishing safety zones for annual fireworks events in the Captain of the Port Detroit area of responsibility. This rule adds safety zones for fireworks events. These safety zones are necessary to protect spectators and vessels from the hazards associated with fireworks displays.
DATES: This rule is effective June 9, 2010.
ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0126 and are available online by going to http://www.regulations.gov, inserting USCG–2010–0126 in the “Keyword” box, and then clicking “Search.” This material is also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail CDR Joseph Snowden, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9508, e-mail Joseph.H.Snowden@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.
SUPPLEMENTARY INFORMATION:
Regulatory Information
On April 14, 2010, we published a notice of proposed rulemaking (NPRM) entitled Safety Zones; Annual Fireworks Events in the Captain of the port Detroit Zone in the Federal Register (75 FR 19304). We received zero comments on the proposed rule. No public meeting was requested and none was held. 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. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this operation and immediate action is necessary to prevent possible loss of life or property from the dangers that are associated with fireworks displays.
Basis and Purpose
This rule adds additional events not previously published in 33 CFR 165.941, Safety Zones; Annual Fireworks Events in the Captain of the Port Detroit Zone. These additional safety zones are necessary to protect vessels and spectators from the hazards associated with fireworks displays. Such hazards include obstructions to the waterway that may cause marine casualties, the explosive danger of fireworks and debris falling into the water that may cause death or serious bodily harm.
Discussion of Comments and Changes
We received zero comments regarding the proposed rule. There are no substantive changes to the rule as proposed by the NPRM published on April 14, 2010.
Regulatory Analyses
We developed this 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 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 rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the minimal time that vessels will be restricted from the zones and the zones are in areas where the Coast Guard expects insignificant adverse impact to mariners from the zones’ activation.
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.

**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 might be small entities: The owners or operators of vessels intending to transit or anchor in the areas designated as safety zones in subparts D and E of 33 CFR 160 through (56) during the dates and times the safety zones are being enforced.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: This 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.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM 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). We received zero comments regarding the proposed rule.

**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 rule under that Order and have determined that it does not have implications for federalism. We received zero comments regarding the proposed rule.

**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 rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble. We received zero comments regarding the proposed rule.

**Taking of Private Property**

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. We received zero comments regarding the proposed rule.

**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. We received zero comments regarding the proposed rule.

**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 create an environmental risk to health or risk to safety that may disproportionately affect children. We received zero comments regarding the proposed rule.

**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. We received zero comments regarding the proposed rule.

**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. We received zero comments regarding the proposed rule.

**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. We received zero comments regarding the proposed rule.

**Environment**

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969.
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:


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) * * *

(i) Location: All waters of Lake St. Clair within a 900-foot radius with its center in geographic coordinates are North American Datum of 1983 (NAD 83).

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

(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 83°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.

(d) 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.

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

(i) Location: All waters of St. Clair River within a 300-yard radius of position 42°38′55″ N, 083°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.

(f) 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′35″ N, 083°53′53″ 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.

(g) 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.

(h) 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.

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E.J. Marohn,
Commander, U.S. Coast Guard, Acting Captain of the Port Detroit.