

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket No. USCG–2011–0374]

RIN 1625–AA00

**Safety Zone; Rochester Harbor Festival, Genesee River, Rochester, NY**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Genesee River, Rochester, NY for the Rochester Harbor Festival fireworks. This zone is intended to restrict vessels from the mouth of the Genesee River in Rochester during the Rochester Harbor Festival fireworks on June 25, 2011. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with a firework display.

**DATES:** This rule is effective from 10 p.m. until 10:30 p.m. on June 25, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket USCG–2011–0374 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0374 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 temporary rule, call or e-mail MST3 Rory Boyle, Marine Events Coordinator, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, e-mail [Rory.C.Boyle@uscg.mil](mailto:Rory.C.Boyle@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**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency, for good cause, finds that those procedures are

“impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because waiting for a notice and comment period to run would be impracticable and contrary to the public interest in that it would inhibit the Captain of the Port (COTP) Buffalo from protecting the public and vessels from the hazards associated with fireworks displays on navigable waters.

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**. For the same reasons discussed in the preceding paragraph, a 30-day notice period would also be impracticable and contrary to the public interest.

**Background and Purpose**

The Rochester Harbor Festival is an event intended to celebrate the Independence of the United States. The festival will include fireworks, which be launched on June 25, 2011 between 10 p.m. and 10:30 p.m. from a waterborne location. The COTP Buffalo has determined that waterborne fireworks displays present significant hazards to vessels and spectators in the vicinity of the lunch site.

**Discussion of Rule**

Because of the aforesaid hazards, the COTP Buffalo has determined that a temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading, and launching of the fireworks display. Accordingly, all waters within a 1,120-ft radius of 43°15'42.48" N, 77°36'3.24" W (NAD83) Genesee River, Rochester, NY.

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

**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. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues.

**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 or operators of vessels intending to transit or anchor in the mouth of the Genesee River in Rochester, NY on June 25, 2011 from 10 p.m. until 10:30 p.m.

This safety zone will not have a significant economic impact on a substantial number of small entities because of the minimal amount of time in which the safety zone will be enforced. This safety zone will only be enforced for 90 minutes in a low vessel traffic area. Vessel traffic can pass safely around the zone. Before the effective period, we will issue maritime advisories, which include a Broadcast Notice to Mariners.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer 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 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.

### 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.

### 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.

### 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 create an environmental risk to

health or risk to safety that may disproportionately affect children.

### 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.

### 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 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.

### Environment

We have analyzed this 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 concluded this action is one of a

category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone. An environmental analysis checklist and a 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. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 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 § 165.T09-0374 to read as follows:

#### § 165.T09-0374 Safety zone; Rochester Harbor Festival, Genesee River, Rochester, NY.

(a) *Location.* The following area is a temporary safety zone: All waters within a 1,120-ft radius of 43°15'42.48" N, 77°36'3.24" W Genesee River, Rochester, NY.

(b) *Effective and enforcement period.* This zone will be effective and enforced from 10 p.m. until 10:30 p.m. on June 25, 2011.

(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 Buffalo, or his designated 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 representative.

(3) The "designated 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 designated 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 shall

contact the Captain of the Port Buffalo or his designated representative to obtain permission to do so. The Captain of the Port or his designated representative may be contacted via VHF Channel 16.

(5) 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 designated representative.

Dated: May 31, 2011.

**R.S. Burchell,**

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

[FR Doc. 2011-14780 Filed 6-14-11; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0451]

#### Safety Zone Regulations, Seafair Blue Angels Air Show Performance, Seattle, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the annual Seafair Blue Angels Air Show safety zone on Lake Washington, Seattle, WA from 9 a.m. on August 4, 2011 to 4 p.m. on August 7, 2011. This action is necessary to ensure the safety of the public from inherent dangers associated with these annual aerial displays. During the enforcement period, no person or vessel may enter or transit this safety zone unless authorized by the Captain of the Port or Designated Representative.

**DATES:** The regulations in 33 CFR 165.1319 will be enforced from 9 a.m. on August 4, 2011 to 4 p.m. on August 7, 2011.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail Ensign Anthony P. LaBoy, Sector Puget Sound Waterways Management Division, Coast Guard; telephone 206-217-6323, e-mail [SectorSeattleWWM@uscg.mil](mailto:SectorSeattleWWM@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Seafair Blue Angels Air Show Performance safety zone in 33 CFR 165.1319 daily from 9 a.m. until 4 p.m. from August 4, 2011 through August 7, 2011 unless canceled sooner by the Captain of the Port.

Under the provisions of 33 CFR 165.1319, the following area is

designated as a safety zone: All waters of Lake Washington, Washington State, enclosed by the following points: Near the termination of Roanoke Way 47°35'44" N, 122°14'47" W; thence to 47°35'48" N, 122°15'45" W; thence to 47°36'02.1" N, 122°15'50.2" W; thence to 47°35'56.6" N, 122°16'29.2" W; thence to 47°35'42" N, 122°16'24" W; thence to the east side of the entrance to the west high-rise of the Interstate 90 bridge; thence westerly along the south side of the bridge to the shoreline on the western terminus of the bridge; thence southerly along the shoreline to Andrews Bay at 47°33'06" N, 122°15'32" W; thence northeast along the shoreline of Bailey Peninsula to its northeast point at 47°33'44" N, 122°15'04" W; thence easterly along the east-west line drawn tangent to Bailey Peninsula; thence northerly along the shore of Mercer Island to the point of origin. [Datum: NAD 1983].

In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person or vessel may enter or remain in the zone except for support vessels and support personnel, vessels registered with the event organizer, or other vessels authorized by the Captain of the Port or Designated Representatives. Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders or directions made by the Captain of the Port or Designated Representative.

The Captain of the Port may be assisted by other Federal, state and local law enforcement agencies.

This notice is issued under authority of 33 CFR 165.1319 and 5 U.S.C. 552(a). If the COTP determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 25, 2011.

**S.J. Ferguson,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 2011-14779 Filed 6-14-11; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0407]

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce various safety zones for annual fireworks events in the Captain of the Port Detroit zone from 8:30 p.m. on June 23, 2011 through 11:30 p.m. on September 5, 2011. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after fireworks events. This rule will establish restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and immediately after fireworks events. During each enforcement period, no person or vessel may enter the respective safety zone without permission of the Captain of the Port.

**DATES:** The regulations in 33 CFR 165.941 will be enforced at various times between 8:30 p.m. on June 23, 2011 and 11:30 p.m. on September 5, 2011.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail LT Katie Stanko, Prevention, U.S. Coast Guard Sector Detroit, 110 Mount Elliot Ave., Detroit, MI 48207; telephone (313)-568-9508, e-mail [katie.r.stanko@uscg.mil](mailto:katie.r.stanko@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the following safety zones at the following dates and times:

#### Section 165.941(a)(30) Bay-Rama Fishfly Festival Fireworks, New Baltimore, MI

This safety zone will be enforced from 9:30 p.m. to 11:30 p.m. on June 23, 2011. In the case of inclement weather on June 23, 2011, this safety zone will be enforced from 9:30 p.m. to 11:30 p.m. on June 24, 2011.

#### Section 165.941(a)(35) City of Wyandotte Fireworks, Wyandotte, MI

This safety zone will be enforced from 10 p.m. to 11 p.m. on June 24, 2011.

#### Section 165.941(a)(40) St. Clair Shores Fireworks, St. Clair Shores, MI

This safety zone will be enforced from 9:30 p.m. to 11 p.m. on June 24, 2011. In the case of inclement weather on June 24, 2011, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on June 25, 2011.

#### Section 165.941(a)(51) Target Fireworks, Detroit, MI

The first safety zone will be enforced from 7 a.m. on June 24, 2011 to 6 p.m. on June 27, 2011. In the event of inclement weather, the first safety zone will be enforced from 7 a.m. to 6 p.m. on June 28, 2011.