

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

[Docket No. USCG–2011–0542]

RIN 1625–AA00

Safety Zone; Marine Events Requiring Safety Zones in the Captain of the Port Sault Sainte Marie Zone**AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: This rule will establish safety zones that will restrict vessels from certain portions of water areas within the Sector Sault Sainte Marie Captain of the Port zone. These safety zones are necessary to protect spectators, participants, and vessels from the hazards associated with various maritime events.

DATES: This rule is effective in the CFR on June 30, 2011 through 11:59 p.m. on July 4, 2011. This rule is effective with actual notice for purposes of enforcement at 2 p.m. on June 18, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0542 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0542 in the “Keyword” box, and then clicking “Search.” They are 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 The U.S. Coast Guard Sector Sault Sainte Marie Marine Event Coordinator; telephone 906–635–3222, e-mail SMBSECSaultFI@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 doing so would be impracticable and contrary to the public interest. Delaying this rule to wait for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard’s ability to protect the public from the hazards associated with various, organized maritime events.

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, delaying this rule to wait for a 30 day effective period to run would be impracticable and contrary to the public interest.

Background and Purpose

This spring and summer a number of firework displays and festivals will occur on the water in the Sector Sault Sainte Marie Captain of the Port zone. These events are expected to draw a number of spectators. The Captain of the Port Sault Sainte Marie has determined that these types of maritime events and the expected gathering of vessels create hazards for the participants and spectators. Such hazards include obstructions to navigable channels, explosive dangers associated with fireworks, debris falling into the water, and general congestion of waterways.

Discussion of Rule

To minimize the aforementioned hazards, this temporary rule will establish fifteen safety zones, each one for a particular maritime event. This rule and its associated safety zones are necessary to ensure the safety of vessels and people during each of the marine events discussed herein. The Captain of the Port Sault Sainte Marie will notify the public when these safety zones will be enforced. In keeping with 33 CFR 165.7(a), the Captain of the Port Sault Sainte Marie will use all appropriate means to notify the affected segments of the public. This will include, as practicable, Broadcast Notice to Mariners, and Local Notice to Mariners. The Captain of the Port will, as practicable, issue a Broadcast Notice to Mariners notifying the public when any enforcement period is cancelled.

Entry into, transiting, or anchoring within each of the below safety zones is prohibited unless authorized by the Captain of the Port Sault Sainte Marie

or his or her designated representative. All persons and vessels permitted to enter one of the safety zones established by this rule shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative. The Captain of the Port or his or her 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.

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. The safety zones created by this rule will be relatively small and enforced for a relatively short time. Also, each safety zone is designed to minimize its impact on navigable waters. Furthermore, each safety zone has been designed to allow vessels to transit unrestricted to portions of the waterways not affected by the safety zones. Thus, restrictions on vessel movement within any particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through each safety zone when permitted by the Captain of the Port. On the whole, 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 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 would affect the following entities, some of which might be small entities: The owners and operators of vessels intending to transit or anchor in any one of the below established safety zones while the safety zone is being enforced. Each safety zone will be in effect for only a short time. Furthermore, each safety zone has been designed to allow traffic to pass safely around it. Moreover, vessels will be allowed to pass through each zone at the discretion 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), 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 an 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 because it involves the establishment safety zones. 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. Chapter 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.T09–0542 to read as follows:

§ 165.T090542 Safety Zone; Marine 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) Marquette Fourth of July

Celebration Fireworks; Marquette, MI:

(i) *Location.* All U.S. navigable waters of Marquette Harbor within a 1000-foot radius of the fireworks launch site, centered approximately 1250 feet south of the Mattson Park Bulkhead Dock and 450 feet east of Ripley Rock, at position 46°32'21.7" N, 087°23'07.60" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on July 4, 2011 from 9 p.m. until 11 p.m. If the July 4 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5, 2011 from 9 p.m. until 11 p.m.

(2) Munising Fourth of July

Celebration Fireworks; Munising, MI:

(i) *Location.* All U.S. navigable waters of South Bay within a 600-foot radius from the fireworks launch site at the end of the Munising City Dock, centered in position: 46°24'50.08" N, 086°39'08.52" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on July 4, 2011 from 9 p.m. until 12:30 a.m. on July 5, 2011. If the July 4, 2011 fireworks are cancelled due to inclement weather, then this safety zone will be enforced on July 5, 2011 from 9 p.m. until 12:30 a.m. on July 6, 2011.

(3) Grand Marais Splash-In; Grand Marais, MI:

(i) *Location.* All U.S. navigable waters within the southern portion of West Bay bound to the north by a line beginning approximately 175 feet south-southeast of the Lake Street Boat Launch, extending 5280 feet to the east on a true bearing of 079 degrees. The eastern boundary will then be formed by a line drawn to the shoreline on a true bearing of 170 degrees. The western and southern boundaries of the zone will be bound by the shoreline of West Bay. The coordinates for this zone are as follows: 46°40'22.98" N, 085°59'00.78" W, 46°40'32.04" N, 085°57'46.14" W, and 46°40'19.68" N, 085°57'43.08" W [DATUM: NAD 83], with the West Bay shoreline forming the South and West boundaries of the zone.

(ii) *Enforcement Period.* This safety zone will be enforced on June 18, 2011 from 2 p.m. until 5 p.m.

(4) Sault Sainte Marie Fourth of July Celebration Fireworks; Sault Sainte Marie, MI:

(i) *Location.* All U.S. navigable waters of the St. Marys River within a 750-foot radius around the eastern portion of the U.S. Army Corp of Engineers Soo Locks

North East Pier, centered in position: 46°30'19.66" N, 084°20'31.61" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on July 4, 2011 from 9 p.m. until 11:30 p.m. If the July 4, 2011 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5, 2011 from 9 p.m. until 11:30 p.m.

(5) St. Ignace Fourth of July Celebration Fireworks; St. Ignace, MI:

(i) *Location.* All U.S. navigable waters of East Moran Bay within a 700-foot radius from the fireworks launch site at the end of the Arnold Transit Mill Slip, centered in position: 45°52'16.92" N, 084°43'18.48" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on July 4, 2011 from 9 p.m. until 11:30 p.m. If the July 4, 2011 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5, 2011 from 9 p.m. until 11:30 p.m.

(6) Mackinac Island Fourth of July Celebration Fireworks; Mackinac Island, MI:

(i) *Location.* All U.S. navigable waters of Lake Huron within a 500-foot radius of the fireworks launch site, centered approximately 1000 yards west of Round Island Passage Light, at position 45°50'34.92" N, 084°37'38.16" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on July 4, 2011 from 9 p.m. until 11 p.m. If the July 4, 2011 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5, 2011 from 9 p.m. until 11 p.m.

(7) Canada Day Celebration Fireworks; Sault Sainte Marie, MI:

(i) *Location.* All U.S. navigable waters of the St. Marys River within a 1200-foot radius from the fireworks launch site, centered approximately 160 yards north of the U.S. Army Corp of Engineers Soo Locks North East Pier, at position 46°30'20.40" N, 084°20'17.64" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on July 1, 2011 from 9 p.m. until 11 p.m. If the July 1, 2011 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 2, 2011 from 9 p.m. until 11 p.m.

(8) Jordan Valley Freedom Festival Fireworks; East Jordan, MI:

(i) *Location.* All U.S. navigable waters of Lake Charlevoix, near the City of East Jordan, within the arc of a circle with a 1000-foot radius from the fireworks launch site in position 45°09'18" N, 085°07'48" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on June 18, 2011 from 9 p.m. until 11 p.m.

(9) National Cherry Festival Fourth of July Celebration Fireworks; Traverse City, MI:

(i) *Location.* All U.S. navigable waters of the West Arm of Grand Traverse Bay within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in position 44°46'12" N, 085°37'06" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on July 4, 2011 from 9 p.m. until 11 p.m. If the July 4, 2011 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5, 2011 from 9 p.m. until 11 p.m.

(10) Harbor Springs Fourth of July Celebration Fireworks; Harbor Springs, MI:

(i) *Location.* All U.S. navigable waters of Lake Michigan and Harbor Springs Harbor within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in position 45°25'26.64" N, 084°58'49.8" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on July 4, 2011 from 9 p.m. until 11 p.m. If the July 4, 2011 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5, 2011 from 9 p.m. until 11 p.m.

(11) Bay Harbor Yacht Club Fourth of July Celebration Fireworks; Petoskey, MI:

(i) *Location.* All U.S. navigable waters of Lake Michigan and Little Traverse Bay within the arc of a circle with a 1000-foot radius from the fireworks launch site located on a barge in position 45°22'07" N, 085°01'40" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on July 3, 2011 from 9 p.m. until 11 p.m. If the July 3, 2011 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 4, 2011 from 9 p.m. until 11 p.m.

(12) Petoskey Fourth of July Celebration Fireworks; Petoskey, MI:

(i) *Location.* All U.S. navigable waters of Lake Michigan and Petoskey Harbor, in the vicinity of Bay Front Park, within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 45°22'50.4" N, 084°57'01.6" W [DATUM: NAD 83].

(ii) *Enforcement Period.* This safety zone will be enforced on July 4, 2011 from 9 p.m. until 11 p.m. If the July 4, 2011 fireworks are cancelled due to inclement weather, then this safety zone

will be enforced July 5, 2011 from 9 p.m. until 11 p.m.

(13) Boyne City Fourth of July Celebration Fireworks; Boyne City, MI:

(i) *Location*. All U.S. navigable waters of Lake Charlevoix, in the vicinity of Veterans Park, within the arc of a circle with a 1400-foot radius from the fireworks launch site located in position 45°13'30" N, 085°01'40" W [DATUM: NAD 83].

(ii) *Enforcement Period*. This safety zone will be enforced on July 4, 2011 from 9 p.m. until 11 p.m. If the July 4, 2011 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5, 2011 from 9 p.m. until 11 p.m.

(14) National Cherry Festival Air Show; Traverse City, MI:

(i) *Location*. All U.S. navigable waters of the West Arm of Grand Traverse Bay bounded by a line drawn from 44°46'48" N, 085°38'18" W, then southeast to 44°46'30" N, 085°35'30" W, then southwest to 44°46'00" N, 085°35'48" W, then northwest to 44°46'18" N, 085°38'18" W, then back to the point of origin [DATUM: NAD 83].

(ii) *Enforcement Period*. This safety zone will be enforced from July 1, 2011 thru July 3, 2011, from noon until 4 p.m. each day.

(15) Alpena Fourth of July Celebration Fireworks, Alpena, MI:

(i) *Location*. All U.S. navigable waters of Lake Huron within an 800-foot radius of the fireworks launch site located near the end of Mason Street, South of State Avenue, at position 45°02'42" N, 083°26'48" W (NAD 83).

(ii) *Enforcement Period*. This safety zone will be enforced on July 4, 2011 from 9 p.m. until 11 p.m. If the July 4, 2011 fireworks are cancelled due to inclement weather, then this safety zone will be enforced July 5, 2011 from 9 p.m. until 11 p.m.

(b) *Definitions*. The following definitions apply to this section:

(1) *Designated representative* means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port Sault Sainte Marie to monitor these safety zones, permit entry into these safety zones, give legally enforceable orders to persons or vessels within these safety zones, or take other actions authorized by the Captain of the Port Sault Sainte Marie.

(2) *Public vessel* means a vessel owned, chartered, or operated by the United States or by a State or political subdivision thereof.

(c) *Regulations*. (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within any of the safety zones

listed in this section is prohibited unless authorized by the Captain of the Port Sault Sainte Marie, or a designated representative.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Sault Sainte Marie or a designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3) When a safety zone established by this section is being enforced, all vessels must obtain permission from the Captain of the Port Sault Sainte Marie or a designated representative to enter, move within, or exit that safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Sault Sainte Marie or a designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

(d) *Suspension of Enforcement*. If an event concludes earlier than scheduled, the Captain of the Port Sault Sainte Marie will issue a Broadcast Notice to Mariners notifying the public that enforcement of the respective safety zone is suspended.

(e) *Exemption*. Public vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

(f) *Waiver*. For any vessel, the Captain of the Port Sault Sainte Marie or a designated representative may, at his or her discretion, waive any of the requirements of this section, upon finding that circumstances are such that application of this section is unnecessary or impractical for the purposes of safety or environmental safety.

Dated: June 17, 2011.

G.J. Paitl,

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

[FR Doc. 2011-16339 Filed 6-29-11; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-0303]

RIN 1625-AA00

Safety Zone; Shore Thing and Independence Day Fireworks, Chesapeake Bay, Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Chesapeake Bay in the vicinity of Ocean View Beach Park, Norfolk, VA in support of the Shore Thing and Independence Day Fireworks event. This action is necessary to provide for the safety of life on navigable waters during the Shore Thing and Independence Day Fireworks show. This action is intended to restrict vessel traffic movement on the Chesapeake Bay to protect mariners from the hazards associated with fireworks displays.

DATES: This regulation is effective from 9 p.m. through 10 p.m. on July 1, 2011, with a rain date from 9 p.m. through 10 p.m. on July 2, 2011.

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-2011-0303 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0303 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 LCDR Christopher O'Neal, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone 757-668-5581, e-mail Christopher.A.ONeal@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 May 13, 2011, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Shore Thing and