

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]

**BILLING CODE 9110-04-P**

## 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](mailto: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

Independence Day Fireworks, Chesapeake Bay, Norfolk, VA in the **Federal Register** (76 FR 093). We received 00 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**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment during the fireworks event; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

#### **Background and Purpose**

On July 1, 2011, Norfolk Festevents Ltd. will sponsor a fireworks display on the Chesapeake Bay at position 36°57'17" N/076°15'00" W (NAD 1983). Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, access to the Chesapeake Bay within 210 feet of the fireworks display will be temporarily restricted.

#### **Discussion of Comments and Changes**

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing a safety zone on specified waters of the Chesapeake Bay in Norfolk, Virginia.

#### **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 proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this proposed regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration;

(ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

#### **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.

#### **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).

#### **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 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 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 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 which 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 establishing a safety zone around a fireworks display and is expected to have no impact on the water or environment. This zone is designed to protect mariners and spectators from the hazards associated with aerial fireworks displays.

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 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. 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, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05-0303 to read as follows:

### § 165.T05-0303 Safety Zone; Shore Thing and Independence Day Fireworks, Chesapeake Bay, Norfolk, VA.

(a) *Regulated Area:* The following area is a safety zone: specified waters of the Chesapeake Bay located within a 210 foot radius of the fireworks display at approximate position 36°57'17" N/ 076°15'00" W (NAD 1983) in the vicinity of Ocean View Beach Park, Norfolk, VA.

(b) *Definition:* For the purposes of this part, Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulations:* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone Number (757) 668-5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF-FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement Period:* This regulation will be enforced 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.

Dated: June 20, 2011.

Mark S. Ogle,

*Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.*

[FR Doc. 2011-16357 Filed 6-29-11; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket No. USCG-2011-0304]

RIN 1625-AA00

### Safety Zone; Cape Charles Fireworks, Cape Charles Harbor, Cape Charles, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the navigable waters of Cape Charles City Harbor in Cape Charles, VA in support of the Fourth of July Fireworks event. This action is necessary to provide for the safety of life on navigable waters during the Cape Charles Fireworks show. This action is intended to restrict vessel traffic movement to protect mariners and spectators from the hazards associated with aerial fireworks displays.

**DATES:** This rule is effective from 9 p.m. until 10 p.m. on July 3, 2011, with a rain date of July 4, 2011 from 9 p.m. until 10 p.m.

**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.

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