

Dated: June 7, 2012.

**J.M. Vojvodich,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.*

[FR Doc. 2012-16296 Filed 7-3-12; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2012-0568]

RIN 1625-AA00

#### Safety Zone; Barbara Harder Wedding Fireworks, Lake Erie, Lake View, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Lake Erie, Lake View, NY. This safety zone is intended to restrict vessels from a portion of Lake Erie during the Barbara Harder Wedding Fireworks. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with a fireworks display.

**DATES:** This rule will be effective from 9 p.m. until 11 p.m. on July 7, 2012.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG-2012-0568]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box, and click "Search." You may visit the Docket Management Facility, 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 email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716-843-9343, email [SectorBuffaloMarineSafety@uscg.mil](mailto:SectorBuffaloMarineSafety@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:

##### Table of Acronyms

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

### A. Regulatory History and 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. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a maritime fireworks display, which are discussed further below.

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, waiting for 30 day notice period run would be impracticable and contrary to the public interest.

### B. Basis and Purpose

Between 9:30 p.m. and 10:30 p.m. on July 7, 2012, a fireworks display will be held on Lake Erie near Lake View, NY. The Captain of the Port Buffalo has determined that fireworks launched proximate to a gathering of watercraft pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris.

### C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of spectators and vessels during the Barbara Harder Wedding Fireworks. This zone will be effective and enforced from 9 p.m. until 11 p.m. on July 7, 2012. This zone will encompass all waters of Lake Erie, Lake View, NY within a 560 foot radius of position

42°43'17.8" N and 78°57'54.2" W (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

### D. 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.

#### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. 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. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

#### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 a portion of the Lake Erie on the evening of July 7, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be activated, and thus subject to enforcement, for only two hours late in the day. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the activation of the zone, we would issue local Broadcast Notice to Mariners.

### 3. 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 rule. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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.

### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and

determined that this rule does not have implications for federalism.

### 6. 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.

### 7. 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.

### 8. 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.

### 9. 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.

### 10. 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.

### 11. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 12. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 13. 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 (NEPA)(42 U.S.C. 4321–4370f), and have determined that 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 involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this 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 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; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T09–00568 to read as follows:

#### § 165.T09–00568 Safety Zone; Barbara Harder Wedding Fireworks, Lake Erie, Lake View, NY.

(a) *Location.* The safety zone will encompass all waters of Lake Erie, Lake View, NY within a 560 foot radius of position 42°43'17.8" N and 78°57'54.2" W (NAD 83).

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced on July 7, 2012 from 9 p.m. until 11 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 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 on-scene 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 on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. 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 on-scene representative.

Dated: June 21, 2012.

**S.M. Wischmann,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 171

[EPA-HQ-OPP-2011-0049; FRL-9334-4]

RIN 2070-AJ77

### Synchronizing the Expiration Dates of the Pesticide Applicator Certificate With the Underlying State or Tribal Certificate

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This final rule will reduce burden to restricted use pesticide applicators and simplify federal certification expiration dates. Restricted use pesticides (RUPs) are those which may generally cause unreasonable adverse effects on the environment without additional restrictions. RUPs may only be applied by or under the direct supervision of an applicator certified as competent by a certifying agency. A State, tribe, or Federal agency becomes a certifying agency by receiving approval from EPA on their certification plan. In areas not covered by a certifying agency, EPA may establish a Federal certification plan and issue Federal certificates directly.

One way EPA may issue a Federal certificate is based on an existing valid certificate from a certifying agency, and this final rule will synchronize the expiration dates on the Federal certificate with that of the certifying agency certificate on which the Federal certificate is based.

**DATES:** This final rule is effective September 4, 2012.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2011-0049, is available either electronically through <http://www.regulations.gov> or in hard copy at the OPP Docket in the Environmental Protection Agency Docket Center (EPA/DC), located in EPA West, Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Joe Hogue, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 308-9072; fax number: (703) 308-7070; email address: [hogue.joe@epa.gov](mailto:hogue.joe@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Executive Summary

###### A. Does this action apply to me?

You may be potentially affected by this action if you are or intend to become a certified applicator under an EPA Federal certification plan. Certified applicators are included in three major industries in the North American Industrial Classification System (NAICS) codes described as crop production, animal production or exterminating, and pest control services. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111), e.g., individuals that are private certified applicators on farms.
- Animal production (NAICS code 112), e.g., individuals that are private certified applicators on farms.
- Exterminating and pest control services (NAICS code 561710), e.g., individuals that are commercial certified applicators for hire.

This listing is not intended to be exhaustive, but rather provides a guide

for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected.

###### B. What is the agency's authority for taking this action?

This final rule is issued pursuant to the authority in sections 11 and 25 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136i and w). Section 11 of FIFRA (7 U.S.C. 136i), requires EPA to provide certification plans for applicators of RUPs. Section 25 of FIFRA (7 U.S.C. 136w), authorizes EPA to issue regulations to carry out provisions of FIFRA.

## II. Background

Under the provisions of FIFRA section 3(d)(1)(C), EPA shall classify a pesticide for restricted use, if, absent additional regulatory restrictions, the Agency determines that it may generally cause unreasonable adverse effects on the environment. RUPs may be applied only by a certified applicator or under the direct supervision of a certified applicator.

Pesticide applicators can be certified either by a certifying agency (a State, tribe, or non-EPA Federal agency that has an EPA-approved certification plan), or directly by EPA through a Federal certification plan for an area or situation not covered by a certifying agency's plan. Applicators must demonstrate competency to the certifying agency granting the certificate, according to the requirements of that agency's plan. Currently, all 50 States, some federal agencies, and 4 tribes are certifying agencies (i.e., they implement their EPA-approved certification plans). Applicators certified by a State may apply RUPs in that State, and applicators certified by a tribe may apply RUPs in that tribe's Indian country, without a Federal certificate. However, under 40 CFR 171.11, in areas where there is no EPA-approved certification plan in effect (currently, most of Indian country), EPA may implement a Federal plan, thereby allowing applicators to use RUPs in the area covered by the plan after receiving Federal certification. Under 40 CFR 171.11(e), a Federal plan may include an option that allows applicators to be issued an EPA Federal certificate after submitting to EPA a certification form along with documentation of a valid certificate from a certifying agency, without further demonstration of competency.

Applicator certificates have expiration dates to help ensure that certified applicators maintain their competency.