

Dated: June 15, 2015.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0531]

RIN 1625-AA00

Safety Zone; Bridgefest Regatta Fireworks, Portage Canal, Hancock, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Portage Canal near Hancock, MI. This safety zone is intended to restrict vessels from specified waters in the Portage Canal during the Bridgefest Regatta Fireworks Display. This safety zone is necessary to protect spectators from the hazards associated with the fireworks display.

DATES: This rule is effective from 10 p.m. to 11 p.m. on June 20, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2015-0531]. 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." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 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 email Chief Petty Officer Aaron Woof, Waterways management, MSU Duluth, Coast Guard; telephone 218-725-3821, email Aaron.M.Woof@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 1-800-647-5527.

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 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. In May of this year, the Coast Guard discovered an error in the coordinates for the safety zone for the Bridgefest Regatta Fireworks in 33 CFR 165.943(a)(1). On May 4, 2015, the COTP Duluth signed a NPRM to correct the error (USCG-2015-0215). This NPRM has yet to publish in the **Federal Register**. Because the fireworks event is scheduled for June 20, 2015, there is insufficient time to accommodate the comment period. Thus, delaying the effective date of this rule to wait for the 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 the fireworks display.

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 a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 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; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

Between 10 p.m. and 11 p.m. on June 20, 2015, Bridgefest Regatta fireworks display will take place within the Portage Canal in Hancock, MI. The likely combination of recreation vessels, darkness punctuated by bright flashes of light, and fireworks debris falling into the water presents risks of collisions which could result in serious injuries or

fatalities. Establishing a safety zone around the launch site will help ensure the safety of persons and recreational boats during the fireworks display.

C. Discussion of the Final Rule

In light of the aforementioned hazards, the Captain of the Port Duluth has determined that a temporary safety zone is necessary to ensure the safety of spectators and participants during the fireworks display. This safety zone will encompass all waters of the Portage Canal within an area bounded by a circle with a 280 foot radius at position 47° 07' 22" N, 088° 35' 39" W.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth 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 Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

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 an hour on a single day. 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. Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on small entities. This rule would affect the following entities, some of which might be small entities: the owners or operators of recreational vessels intending to transit or anchor in a portion of the Portage Canal in Hancock, MI from 10 p.m. to 11 p.m. on June 20, 2015.”

This safety zone will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section. Additionally, before the enforcement of the zone, we would issue local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

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**, 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. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. Technical Standards

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

14. 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 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 establishing a safety zone. This rule 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 record keeping 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.T09–0531 to read as follows:

§ 165.T09–0531 Safety zone; Bridgefest Regatta Fireworks, Portage Canal, Hancock, MI.

(a) *Location.* All waters of the Portage Canal within an area bounded by a

circle with a 280 foot radius at position 47°07'22" N, 088°35'39" W.

(b) *Effective period.* This safety zone is effective from 10 p.m. to 11 p.m. on June 20, 2015.

(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 Duluth, 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 Duluth or his designated on-scene representative.

(3) The "on-scene 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 on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Duluth or his on-scene representative to obtain permission to do so. 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 Duluth or his on-scene representative.

Dated: June 10, 2015.

A.H. Moore, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Duluth.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AP43

Presumption of Herbicide Exposure and Presumption of Disability During Service for Reservists Presumed Exposed to Herbicide

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulation governing individuals presumed to have been exposed to certain herbicides. Specifically, VA is expanding the regulation to include an additional group consisting of individuals who performed service in the Air Force or

Air Force Reserve under circumstances in which they had regular and repeated contact with C-123 aircraft known to have been used to spray an herbicide agent ("Agent Orange") during the Vietnam era. In addition, the regulation will establish a presumption that members of this group who later develop an Agent Orange presumptive condition were disabled during the relevant period of service, thus establishing that this service constituted "active, naval, military or air service." The effect of this action is to presume herbicide exposure for these individuals and to allow individuals who were exposed to herbicides during reserve service to establish veteran status for VA purposes and eligibility for some VA benefits. The need for this action results from a recent decision by the Secretary of Veterans Affairs to acknowledge that individuals who had regular and repeated exposure to C-123 aircraft that the United States Air Force used to spray the herbicides in Vietnam during Operation Ranch Hand were exposed to Agent Orange.

DATES: *Effective Date:* This interim final rule is effective on June 19, 2015.

Applicability Dates: This interim final rule is applicable to any claim for service connection for an Agent Orange presumptive condition filed by a covered individual that is pending on or after June 19, 2015.

Comment date: Comments must be received on or before August 18, 2015.

FOR FURTHER INFORMATION CONTACT:

Stephanie Li, Chief, Regulations Staff, Compensation Service (21C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 461-9700 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In 2014, VA commissioned the National Academy of Sciences' Institute of Medicine (IOM) to conduct a consensus study of all available scientific literature and knowledge on the subject of residual exposure to Agent Orange from service on aircraft formerly used during Operation Ranch Hand in Vietnam. VA commissioned this study to get a better understanding of the potential harmful exposures and health effects involved in serving on these aircraft after the conclusion of herbicide spraying operations in Vietnam. Specifically, VA requested that the IOM "determine whether there had been exposures that could lead to excess risk of adverse health outcomes among [Air Force] Reserve personnel who flew in and/or maintained C-123 aircraft (outside of Vietnam) that had previously been used to spray Agent Orange." See Institute of

Medicine, National Academy of Sciences, Post-Vietnam Dioxin Exposure in Agent Orange-Contaminated C-123 Aircraft 10 (2015), available at <http://www.publichealth.va.gov/exposures/agentorange/publications/institute-of-medicine.asp>.

According to the IOM's 2015 report on C-123 exposures, from 1972 to 1982, approximately 1,500 to 2,100 Air Force Reserve personnel trained and worked on C-123 aircraft, of which approximately 30 had formally been used to spray herbicides in Vietnam. *Id.* at 9. The report noted that the aircraft had been assigned to a few Air Force Reserve units where they were used for military airlift, medical transport, and cargo transport operations in the United States and internationally. *Id.* at 26. Regarding the potential for harmful exposures, the IOM found that Reservists who served as flight crew (pilot, navigator, flight engineer, and loadmaster), ground maintenance crew, and aero-medical personnel had regular and repeated contact with the aircraft. *Id.* at 26-27. The report identified the specific aircraft and the Reserve units to which they were assigned, and concluded, "it is probable that the [herbicide] exposures of at least some [Air Force] Reservists exceeded levels equivalent to some guidelines established for office workers in enclosed settings." *Id.* at 62. The IOM determined that it is "plausible that the C-123s did contribute to some adverse health consequences among [Air Force] Reservists who worked in [Operation Ranch Hand] C-123s after the planes returned from Vietnam." *Id.* at 62-63.

Based upon the IOM report, the Secretary of Veterans Affairs has decided that VA will acknowledge exposure to Agent Orange for approximately 1,500 to 2,100 Air Force and Air Force Reserve personnel whose military service involved regular and repeated contact with the contaminated C-123 aircraft. Therefore, this interim final rule establishes a presumption of exposure to herbicides for individuals who performed service in the Air Force or Air Force Reserve under circumstances in which the individual concerned regularly and repeatedly operated, maintained, or served onboard C-123 aircraft known to have been used to spray an herbicide agent during the Vietnam era. However, most individuals with such service were members of the Air Force Reserve at the time. Basic eligibility for VA benefits requires that an individual be a "veteran" as that term is defined in 38 U.S.C. 101(2): "The term 'veteran' means a person who served in the active military, naval, or air service, and who was discharged or