

# **§ 16.96 Exemption of Federal Bureau of Investigation Systems-limited access.**

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(x) The following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G), (H), and (I), (5), and (8); (f); and (g):

(1) The FBI Online Collaboration Systems (JUSTICE/FBI-004).

(2) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j) or (k). Where the FBI determines compliance with an exempted provision would not appear to interfere with or adversely affect interests of the United States or other system stakeholders, the FBI in its sole discretion may waive an exemption in whole or in part; exercise of this discretionary waiver prerogative in a particular matter shall not create any entitlement to or expectation of waiver in that matter or any other matter. As a condition of discretionary waiver, the FBI in its sole discretion may impose any restrictions deemed advisable by the FBI (including, but not limited to, restrictions on the location, manner, or scope of notice, access or amendment).

(y) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3), the requirement that an accounting be made available to the named subject of a record, because this system is exempt from the access provisions of subsection (d). Also, because making available to a record subject the accounting of disclosures from records concerning him/her would specifically reveal any law enforcement or national security investigative interest in the individual by the FBI or agencies that are recipients of the disclosures. Revealing this information could compromise ongoing, authorized law enforcement and intelligence efforts, particularly efforts to identify and defuse any potential acts of terrorism or other potential violations of criminal law. Revealing this information could also permit the record subject to obtain valuable insight concerning the information obtained during any investigation and to take measures to circumvent the investigation (e.g. destroy evidence or flee the area to avoid investigation).

(2) From subsection (c)(4) notification requirements because this system is exempt from the access and amendment provisions of subsection (d) as well as the accounting disclosures provision of subsection (c)(3). The FBI takes seriously its obligation to maintain accurate records despite its assertion of this exemption, and to the extent it, in

its sole discretion, agrees to permit amendment or correction of FBI records, it will share that information in appropriate cases.

(3) From subsections (d)(1), (2), (3), and (4); (e)(4)(G) and (H); (e)(8); (f); and (g) because these provisions concern individual access to and amendment of law enforcement and intelligence records and compliance with such provisions could alert the subject of an authorized law enforcement or intelligence activity about that particular activity and the investigative interest of the FBI and/or other law enforcement or intelligence agencies. Providing access rights could compromise sensitive law enforcement information, disclose information that could constitute an unwarranted invasion of another's personal privacy; reveal a sensitive investigative or intelligence technique; provide information that would allow a subject to avoid detection or apprehension; or constitute a potential danger to the health or safety of law enforcement personnel, confidential sources, and witnesses. The FBI takes seriously its obligation to maintain accurate records despite its assertion of this exemption, and to the extent it, in its sole discretion, agrees to permit amendment or correction of FBI records, it will share that information in appropriate cases with subjects of the information.

(4) From subsection (e)(1) because it is not always possible to know in advance what information is relevant and necessary for law enforcement and intelligence purposes. Relevance and necessity are questions of judgment and timing. For example, what appears relevant and necessary when collected ultimately may be deemed unnecessary. It is only after information has been fully assessed that its relevancy and necessity in a specific investigative activity can be determined.

(5) From subsections (e)(2) and (3) because application of these provisions requiring collection directly from the subject individuals and informing individuals regarding information to be collected about them could present a serious impediment to efforts to solve crimes and improve national security. Application of these provisions could put the subject of an investigation on notice of the existence of the investigation and allow the subject an opportunity to engage in conduct intended to obstruct or otherwise impede that activity or take steps to avoid apprehension.

(6) From subsection (e)(4)(I), to the extent that this subsection is interpreted to require more detail regarding the record sources in this system than has

already been published in the **Federal Register** through the SORN documentation. Should the subsection be so interpreted, exemption from this provision is necessary to protect the sources of law enforcement and intelligence information and to protect the privacy and safety of witnesses and informants and others who provide information to the FBI.

(7) From subsection (e)(5) because in the collection of information for authorized law enforcement and intelligence purposes it is often impossible to determine in advance what information is accurate, relevant, timely, and complete. With time, additional facts, or analysis, information may acquire new significance. The restrictions imposed by subsection (e)(5) would thus limit the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement. Although the FBI has claimed this exemption, it continuously works with its federal, state, local, tribal, and international partners to maintain the accuracy of records to the greatest extent practicable. The FBI does so with established policies and practices. The criminal justice and national security communities have a strong operational interest in using up-to-date and accurate records and will apply their own procedures and foster relationships with their partners to further this interest.

Dated: April 2, 2018.

**Peter A. Winn,**

*Acting Chief Privacy and Civil Liberties Officer.*

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 100**

**[Docket No. USCG-2018-0156]**

#### **Special Local Regulation; California Half Ironman Triathlon, Oceanside, CA**

**AGENCY:** Coast Guard, DHS.

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

**SUMMARY:** The Coast Guard will enforce the special local regulations on the waters offshore Oceanside and within Oceanside Harbor, California during the California Half Ironman Triathlon from 6:30 a.m. to 8:40 a.m. on April 7, 2018.

These special local regulations are necessary to provide for the safety of the participants, crew, spectators, sponsor vessels of the triathlon, and general users of the waterway. During the enforcement period, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative.

**DATES:** The regulations for the marine event listed in 33 CFR 100.1101, Table 1, Item 2, will be enforced from 6:30 a.m. through 8:40 a.m. on April 7, 2018.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this publication of enforcement, call or email Lieutenant Junior Grade Briana Biagas, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone (619) 278-7656, email [D11MarineEventsSD@uscg.mil](mailto:D11MarineEventsSD@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the special local regulations in 33 CFR 100.1101 from 6:30 a.m. through 8:40 a.m. on April 7, 2018 for the California Half Ironman Triathlon in Oceanside, CA. This action is being taken to provide for the safety of life on navigable waterways during the triathlon. Our regulation for recurring marine events in the San Diego Captain of the Port Zone, § 100.1101, specifies the location of the regulated area for this 2 KM loop open water swim is located offshore Oceanside and in Oceanside Harbor. Under the provisions of 33 CFR 100.1101, persons and vessels are prohibited from entering into, transiting through, or anchoring within this regulated area unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This document is issued under authority of 5 U.S.C. 552 (a) and 33 CFR 100.1101. In addition to this document in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners, Broadcast Notice to Mariners, and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: March 20, 2018.

**J.R. Buzzella,**

*Captain, U.S. Coast Guard, Captain of the Port San Diego.*

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**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2018-0263]

**RIN 1625-AA00**

#### **Safety Zone; Pathfinder Bank Fireworks Display; Oswego River, Oswego, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 210-foot radius of the launch site located at 77-79 West First Street, Oswego, NY. This safety zone is intended to restrict vessels from portions of the Oswego River during Pathfinder Bank fireworks display. This temporary safety zone is necessary to protect mariners and vessels from the navigational hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Buffalo.

**DATES:** This rule is effective from 5:15 p.m. until 11:15 p.m. on April 7, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0263 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT Michael Collet, Chief Waterways Management Division, U.S. Coast Guard; telephone 716-843-9322, email [D09-SMB-SECBuffalo-WWM@uscg.mil](mailto:D09-SMB-SECBuffalo-WWM@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

## **II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary 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 the event sponsor did not submit notice to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be impracticable and contrary to the public interest by inhibiting the Coast Guard's ability to protect spectators and vessels from the hazards associated with a 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** because doing so would be impracticable and contrary to the public interest. Delaying the effective date would be contrary to the rule's objectives of ensuring safety of life on the navigable waters and protection of persons and vessels in vicinity of the fireworks display.

## **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Buffalo (COTP) has determined that a fireworks display presents significant risks to the public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks display takes place.

## **IV. Discussion of the Rule**

This rule establishes a safety zone on April 7, 2018, from 5:15 p.m. until 11:15 p.m. The safety zone will encompass all waters of the Oswego River; Oswego, NY contained within 210-foot radius of: 43°27'34.10" N, 076°30'39.50" W.

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