

crime or a State capital crime. In lieu of making a personal appearance at the hearing, the personal representative may submit relevant documents for consideration.

(1) If a hearing is requested, the Army General Counsel or his or her designee shall conduct the hearing.

(2) The hearing shall be conducted in an informal manner.

(3) The rules of evidence shall not apply.

(4) The personal representative and witnesses may appear, at no expense to the Government, and shall, at the discretion of the hearing officer, testify under oath. Oaths must be administered by a person who possesses the legal authority to administer oaths.

(5) The Army General Counsel or designee shall consider any and all relevant information obtained.

(6) The hearing shall be appropriately recorded. Upon request, a copy of the record shall be provided to the personal representative.

(f) *Final determination.* After considering the hearing officer's report, the opinion of the Army General Counsel or his or her designee, and any additional information submitted by the personal representative, the Secretary of the Army or his or her designee shall determine the decedent's eligibility for interment, inurnment, or memorialization. This determination is final and not appealable.

(1) The determination shall be based on evidence that supports or undermines a conclusion that the decedent's actions satisfied the elements of the crime as established by the law of the jurisdiction in which the decedent would have been prosecuted.

(2) If an affirmative defense is offered by the decedent's personal representative, a determination as to whether the defense was met shall be made according to the law of the jurisdiction in which the decedent would have been prosecuted.

(3) Mitigating evidence shall not be considered.

(4) The opinion of the local, State, or Federal prosecutor as to whether he or she would have brought charges against the decedent had the decedent been available is relevant but not binding and shall be given no more weight than other facts presented.

(g) *Notice of decision.* The Executive Director shall provide written notification of the Secretary's decision to the personal representative.

§ 553.49 Exceptions to policies for interment or inurnment at Army Post Cemeteries.

(a) Requests for exceptions to policy will be made to the Executive Director, Army National Military Cemeteries.

(b) Eligibility standards for interment and inurnment are based on honorable military service. Exceptions to the eligibility standards are rarely granted. When granted, exceptions are for those persons who have made significant contributions that directly and substantially benefited the U.S. military.

(c) Requests for an exception to the interment or inurnment eligibility policies shall be considered only after the individual's death.

(d) Procedures for submitting requests for exceptions to policy for interment and inurnment will be established by the Executive Director, Army National Military Cemeteries.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

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BILLING CODE 5001-03-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2019-0552]

RIN 1625-AA00

Safety Zone; Ohio River, Portsmouth, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Ohio River. This action is necessary to provide for the safety of life on these navigable waters near Portsmouth, OH, during a fireworks display on September 1, 2019. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective from 10 p.m. through 10:30 p.m. on September 1, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0552 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 MST3 Wesley Cornelius, MSU Huntington, U.S. Coast Guard; telephone 304-733-0198, email Wesley.P.Cornelius@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

On May 8, 2019, Hamburg Fireworks notified the Coast Guard that it would be conducting a firework display from the Kentucky Shoreline to commemorate Labor Day from 10 p.m. through 10:30 p.m. on September 1, 2019. In response, on July 16, 2019 the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; Ohio River, Portsmouth, OH (84 FR 33880). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this safety zone. During the comment period that ended August 15, 2019 we received no comments.

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**. Delaying the effective date of this rule would be contrary to the public interest because this rule must be established in time to provide for the safety of the public before, during, and after the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the fireworks to be used in this September 1, 2019 display will be a safety concern for anyone within the safety zone. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published July 16, 2019. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 10 p.m. through 10:30 p.m. on

September 1, 2019. The safety zone will cover all navigable waters from mile marker 355.8 to mile marker 356.8. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks display. No vessel or person will be permitted to enter the safety zone unless expressly authorized by the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on size, location, and duration of the safety zone. The safety zone will be enforced on a one-mile stretch of the Ohio River near Portsmouth, OH for one-half hour on one day. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 received no comments from the Small Business Administration on this 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.

While some owners or operators of vessels intending to transit the safety

zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

C. 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).

D. Federalism and Indian Tribal Governments

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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for

federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (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 a safety zone lasting less than 1 hour that will prohibit access to the Ohio River from Mile Marker 355.8 to Mile Marker 356.8. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T08–0552 to read as follows:

§ 165.T08–0552 Safety Zone; Ohio River, Portsmouth, OH.

(a) *Location.* The following area is a safety zone: All navigable waters on the Ohio River from Mile Marker 355.8 to Mile Marker 356.8

(b) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, vessels or persons may not enter the safety zone described in paragraph (a) of this section unless authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

(2) To seek permission to enter the zone, contact the COTP or the COTP's designated representative. The COTP or designated representative may be contacted on VHF Channel 13 or 16 or at 1–800–253–7565.

(3) Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(c) *Enforcement period.* This section will be enforced from 10 p.m. through 10:30 p.m. on September 1, 2019.

Dated: August 23, 2019.

M.A. Wike,

Commander, U.S. Coast Guard, Acting Captain of the Port Sector Ohio Valley.

[FR Doc. 2019–18597 Filed 8–28–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY
Coast Guard
33 CFR Part 165

[Docket Number USCG–2019–0739]

RIN 1625–AA00

Safety Zone; Apple Vacations Fireworks; Lake Michigan, Chicago IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Michigan in Chicago, Illinois, in order to protect vessels and persons from the potential hazards associated with a barge based fireworks display. The temporary safety zone will encompass all waters within a 560 foot radius from the designated barge responsible for the display. The barge will be located in approximate position 41°55'42.62" N, 87°37'34.28" W. Vessels will not be allowed to enter, transit through, or anchor within the safety zone without the permission of the Captain of the Port Lake Michigan or a designated representative.

DATES: This rule is effective from 9:35 p.m. through 10:05 p.m. on September 9, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2019–0739 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 about this rule, call or email LT Tiziana Garner, Marine Safety Unit Chicago, U.S. Coast Guard; telephone (630) 986–2155, email D09-DG-MSUChicago-Waterways@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 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. Delaying the effective date of this rule to wait for a comment period to run would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with a barge based 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**. Delaying the effective date would be contrary to the rule's objectives of protecting safety of life on the navigable waters in the vicinity of the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034

(previously 33 U.S.C. 1231). The Captain of the Port Lake Michigan has determined that the barge based fireworks display will pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, falling and burning debris, and collisions among spectator vessels. 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 from 9:35 p.m. through 10:05 p.m. on September 9, 2019. The safety zone will encompass all waters within a 560 foot radius centered on the designated barge responsible for the fireworks. The barge will be located in approximate position 41°55'42.62" N, 87°37'34.28" W. Vessels will not be allowed to enter, transit through, or anchor within the safety zone without the permission of the Captain of the Port Lake Michigan or a designated representative. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via VHF Channel 16.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the conclusion that this rule is not a significant regulatory action. 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