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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2022–0186]

RIN 1625–AA08

Special Local Regulation; East River 4th of July Fireworks, New York, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the navigable waters of the East River and New York Harbor, New York, NY, for vessel management for the annual 4th of July fireworks displays. This special local regulation allows the Coast Guard to control vessel movement and prohibit all vessel traffic from entering the fireworks barge buffer zone, establish four separate viewing areas, and a moving protection zone around the barges while they are loaded with pyrotechnics. This rule is necessary to provide for the safety of life on the navigable waters immediately before, during, and after a fireworks display that involves multiple barge launch sites on a highly congested waterway.

DATES: This rule is effective July 4, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0186 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 MST1 Stacy Stevenson, Waterways Management Division, U.S. Coast Guard; telephone 718–354–4000, email *D01-SMB-SecNY-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port New York
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 March 7, 2022 the Coast Guard received an Application for Marine Event for the annual 4th of July fireworks display. In response, on April 26, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; East River 4th of July Fireworks, New York, NY (87 FR 24923). We stated why we issued the NPRM and invited comments on our proposed regulatory action related to this fireworks display. We received no comments during the comment period that ended May 27, 2022.

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**. The comment period for the NPRM associated with the East River 4th of July Fireworks ended on May 27, 2022. The fireworks display is scheduled to begin on July 4, 2022. Thus, there is now insufficient time for a 30 day effective period before the need to enforce the special local regulation on July 4, 2022. The fireworks display will take place on July 4, 2022 to coincide with Independence Day. Delaying the enforcement of this special local regulation to allow a 30-day effective period will be impractical and contrary to the public interest because it would inhibit the Coast Guard's ability to fulfill its mission to keep the ports and waterways safe.

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 New York (COTP) has determined that potential hazards associated with a high concentration of vessels, and a fireworks display will be a safety concern for people and vessels in the vicinity of the fireworks barges. This Special Local Regulation is necessary to ensure the safety of vessels from hazards immediately prior to, during, and immediately after the annual Macy's 4th of July fireworks show.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 26, 2022. There are no substantative changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation annually on July 4th or July 5th from 5:30 p.m. through 11:30 p.m. This special local regulation will include a moving protection zone excluding all vessels from entering within a 25-yard radius from each loaded fireworks barge from the point of departure from the loading facility, during the transit of the New York Harbor, and until the placement in show position on the East River. The buffer zone will exclude all nonparticipating vessels from the area surrounding the barges immediately before, during, and after the display. Four separate viewing areas will be established that will separate vessels based on vessel length.

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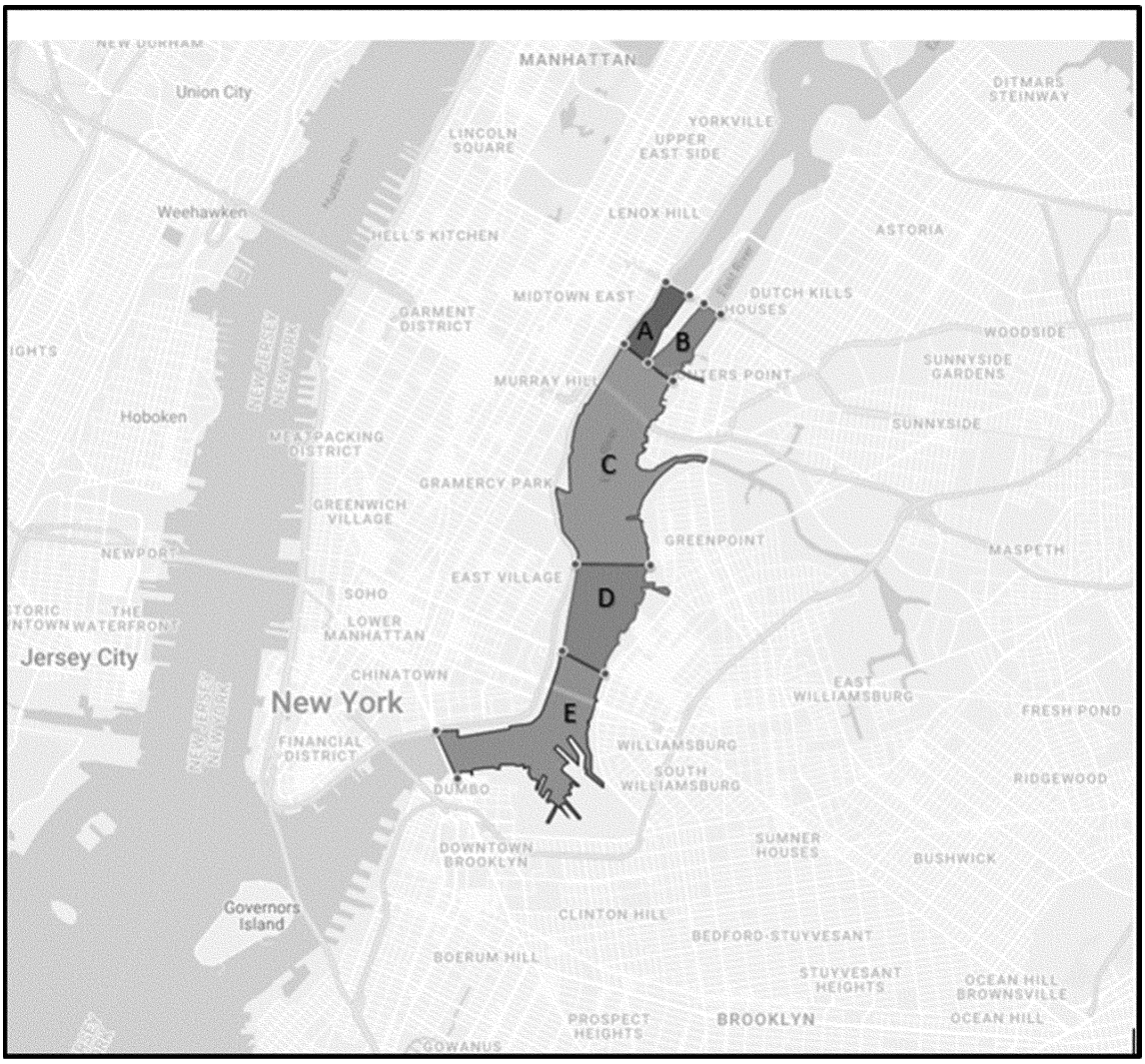

Illustration showing location of regulated areas.

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The duration of the viewing areas are intended to ensure the safety of vessels, participants, spectators, and those transiting the area during the fireworks display. Navigation rules shall apply at all times within the areas. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

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. 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).

This regulatory action determination is based on the duration and time-of-day of the Special Local Regulation. Vessel traffic will only be restricted in the regulated area areas for approximately 6 hours, annually on either July 4th, or July 5th. Advanced public notifications will also be made to local mariners through appropriate means, which may include but not limited to Local Notice to Mariners and Broadcast Notice to Mariners.

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 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 enter or transit within the Special Local Regulation 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.

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, Rev. 1, associated implementing instructions, 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 regulated area lasting approximately 6 hours that would limit persons or vessels from transiting a portion of the East River during the scheduled event. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.110 to read as follows:

§ 100.110 East River 4th of July Fireworks, East River, Manhattan, NY.

(a) Regulated areas. The regulations in this section apply to the following areas:

(1) *Area ALPHA:* All navigable waters of the East River, between the east shore of Manhattan and the west shore of Roosevelt Island south of the Ed Koch Queensboro Bridge encompassed by a line connecting the following points beginning at 40°45′31.46″ N, 73°57′31.42″ W, along the shore to 40°45′6.80″ N, 73°57′53.45″ W, east to Roosevelt Island at 40°44′59.42″ N, 73°57′40.57″ W, along the west shore of Roosevelt island to the Ed Koch Queensboro Bridge at 40°45′26.02″ N, 73°57′19.15″ W, and back to the point of origin.

(2) *Area BRAVO:* All navigable waters of the East River, between the west shore of Queens and the east shore of Roosevelt Island south of the Ed Koch Queensboro Bridge encompassed by a line connecting the following points beginning at 40°45′22.89″ N, 73°57′12.06″ W, along the western shore of Roosevelt Island to 40°44′59.42″ N, 73°57′40.57″ W, east to 40°44′52.25″ N, 73°57′28.08″ W, north along the west shore to the Ed Koch Queensboro Bridge at 40°45′18.82″ N, 73°57′2.91″ W, and back to the point of origin.

(3) *Area CHARLIE:* All navigable waters of the East River encompassed by a line connecting the following points beginning at 40°45′6.80″ N, 73°57′53.45″ W, then south along the shore of Manhattan to 40°43′40.29″ N, 73°58′18.37″ W, across the East River to Brooklyn at 40°43′39.68″ N, 73°57′39.74″ W, then north along the east shore of the East River to 40°44′52.25″ N, 73°57′28.08″ W including the navigable waters of Newtown Creek to the Pulaski Bridge, back to the point of origin.

(4) *Area DELTA:* All navigable waters of the East River encompassed by a line connecting the following points beginning at 40°43′40.29″ N, 73°58′18.37″ W, then south along the shore of Manhattan to 40°43′06″ N, 073°58′25″ W, across the East River to Brooklyn at 40°42′57.34″ N, 73°58′3.03″ W, and north along the shore of Brooklyn To 40°42′15.87″ N, 73°59′19.60″ W, then along the shore of Brooklyn to 40°42′57.34″ N, 73°58′3.03″ W, and then back to the point of origin.

(5) *Area ECHO:* All navigable waters of the East River encompassed by a line connecting the following points beginning at 40°43′06″ N, 073°58′25″ W, then along the shore to the Manhattan Bridge at 40°42′34.74″ N, 73°59′30.65″ W, across the East River to Brooklyn at 40°42′15.87″ N, 73°59′19.60″ W, then along the Brooklyn side of the East River to 40°42′57.34″ N, 73°58′3.03″ W, and then back to the point of origin. These coordinates are based on (NAD 83).

(6) *Moving Protection Zone:* A moving protection zone on all navigable waters within a 50 yard radius of the participating barges while they are

loaded with explosive material will be enforced from the point of departure within the COTP New York zone until placement at the intended destination. The point of departure will be determined each year prior to enforcement of the moving protection zone and the details will be released through a Broadcast Notice to Mariners.

(b) *Definitions.* As used in this section:

Designated Representative is any Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer or other officer operating a Coast Guard vessel and a Federal, State and local officer designated by or assisting the Captain of the Port (COTP) New York in the enforcement of this section.

Official Patrol Vessel means any Coast Guard, Coast Guard Auxiliary, Federal, State or local law enforcement vessel assigned or approved by the COTP New York to assist in the enforcement of this section.

Spectator means a person or vessel not registered with the event sponsor as participants or official patrol vessels.

(c) *Regulations.* (1) In accordance with the special local regulations in § 100.35, entry into, transiting, or anchoring within the limited access area defined in paragraph (a) of this section, is prohibited, unless authorized by the COTP or a designated representative.

(2) All vessels that are authorized by the COTP or a designated representative to enter the limited access areas established in this section must adhere to the following restrictions:

(i) Area ALPHA access is limited to vessels greater than or equal to 20 meters (65.6ft) in length.

(ii) Area BRAVO access is limited to vessels less than 20 meters (65.6ft) in length.

(iii) All vessels are prohibited from entering area CHARLIE without permission from the COTP or a designated representative.

(iv) Area DELTA access is limited to vessels greater than or equal to 20 meters (65.6ft) in length.

(v) Area ECHO access is limited to vessels less than 20 meters (65.6ft) in length.

(vi) All vessels are prohibited from entering the moving protection zone defined in paragraph (a)(6) of this section without permission from the COTP or a designated representative.

(vii) Vessels desiring to utilize any of these limited access areas defined in paragraph (a) of this section must enter the area by 7:30 p.m.

(3) During periods of enforcement all persons and vessels in the limited access areas defined in paragraph (a) of this section must comply with all lawful orders and directions from the COTP New York or the COTP New York's designated representative.

(4) Vessel operators desiring to enter or operate within a limited access area defined in paragraph (a) of this section should contact the COTP New York at (718) 354–4356 or on VHF 16 to obtain permission.

(5) Spectators or other vessels must not anchor, block, loiter or impede the transit of event participants or official patrol vessels in the limited access area defined in paragraph (a) of this section during the effective dates and times unless authorized by COTP New York or designated representative.

(6) The COTP or a representative will inform the public through local notice to mariners and/or Broadcast Notices to Mariners of the enforcement period for the regulated area as well as any changes of the enforcement times.

(d) *Enforcement period.* This section will be enforced annually on July 4, from 5:30 p.m. to 11:30 p.m. In the event the fireworks display is postponed due to inclement weather, this section will be enforced on July 5, from 5:30 p.m. to 11:30 p.m.

Dated: June 14, 2022.

M.R. Sennick,

Captain, U.S. Coast Guard, Acting, Captain of the Port New York.

[FR Doc. 2022–13175 Filed 6–17–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2020–0216]

RIN 1625–AA01

Anchorage Grounds; Cape Fear River Approach, North Carolina

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the anchorage regulations for Lockwoods Folly Inlet, NC, and adjacent navigable waters, by establishing a new offshore anchorage, relocating the existing explosives anchorage, and amending the anchorage regulations. The purpose of this rule is to improve navigation and public safety by accommodating recent and anticipated future growth in cargo vessel traffic and vessel size that call on Military Ocean Terminal Sunny Point and the Port of Wilmington, North Carolina.

DATES: This rule is effective July 21, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2020–0216 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Gregory Kennerley, Sector North Carolina, U.S. Coast Guard; telephone (910) 772–2230, email *Gregory.M.Kennerley@uscg.mil;* or Mr. Matthew Creelman, Waterways Management Branch, Fifth Coast Guard District, U.S. Coast Guard; telephone (757) 398–6230, email *Matthew.K.Creelman2@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
SNPRM Supplemental Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On May 8, 2020, the Coast Guard published a notice of inquiry in the **Federal Register** (85 FR 27343) to solicit public comments on whether we should initiate a rulemaking to establish an anchorage ground offshore in the approaches to the Cape Fear River, North Carolina, and relocate the existing Lockwood's Folly Inlet explosives anchorage. After receiving favorable comments, the Coast Guard decided to propose the rulemaking. On August 17, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) in **Federal Register** (86 FR 45936) and invited comments on our proposed anchorage. After considering comments made on the NPRM, the Coast Guard issued a supplemental notice of proposed rulemaking (SNPRM) in **Federal Register** (87 FR 17047) on March 25, 2022. There we stated why we issued the SNPRM and invited comments on our revised proposed anchorage regulation. During that comment period that ended April 25, 2022, we received one comment.

III. Legal Authority and Need for Rule

The legal basis and authorities for this rule are found in 46 U.S.C.70006, 33 CFR 1.05–1, DHS Delegation No. 0170.1, which collectively authorize the Coast