

Dated: April 25, 2006.

**R.F. Duncan,**

*Rear Admiral, U.S. Coast Guard Commander,  
Eighth Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-06-032]

RIN 1625-AA00

#### Safety Zone; City of Lynn, Fourth of July Fireworks Display, Nahant Bay, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone for the City of Lynn "Fourth of July Fireworks" occurring in Nahant Bay, Massachusetts. This safety zone is necessary to protect the life and property of the maritime public from the potential hazards associated with a fireworks display. The safety zone would temporarily prohibit entry into or movement within this portion of Nahant Bay during the closure period.

**DATES:** Comments and related material must reach the Coast Guard on or before June 5, 2006.

**ADDRESSES:** You may mail comments and related material to Sector Boston, 427 Commercial Street, Boston, MA. Sector Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket will become part of this docket and will be available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Petty Officer Paul English, Sector Boston, Waterways Management Division, at (617) 223-5007.

#### SUPPLEMENTARY INFORMATION:

#### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for the rulemaking (CGD01-06-032), indicate the specific section of this document to which each comment

applies, and give the reason for each comment. Please submit all comments and related materials in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

#### Public Meeting

We do not now plan to hold a public meeting; however, you may submit a request for a meeting by writing to Sector Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

#### Background and Purpose

This rule proposes to establish a safety zone on the waters of Nahant Bay within a 400-yard radius of the fireworks barge located at approximate position 42° 27'.686" N, 070°55'.101" W. The safety zone would be in effect from 8 p.m. until 10:30 p.m. EDT on July 3, 2006.

The safety zone would temporarily restrict movement within the effected portion of Nahant Bay and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside the safety zone during the effective period. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period of this proposed rule via safety marine information broadcasts and Local Notice to Mariners.

#### Discussion of Proposed Rule

The Coast Guard proposes to establish a temporary safety zone in Nahant Bay. The safety zone would be in effect from 8 p.m. until 10:30 p.m. EDT on July 3, 2006. Marine traffic may transit safely outside of the zone in the majority of Nahant Bay during the event. This safety zone would control vessel traffic during the fireworks display to protect the safety of the maritime public.

Due to the limited time frame of the fireworks display, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local media, local notice to mariners and marine information broadcasts.

#### Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Although this proposed rule would prevent traffic from transiting a portion of Nahant Bay during the closure period, the effects of this rule would not be significant for several reasons: Vessels will be excluded from the proscribed area for only two and one half hours, vessels will be able to transit around the zone in the unrestricted portion of Nahant Bay during the event, and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners notifying them of the parameters and effective period of the zone.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portion of Nahant Bay from 8 p.m. EDT on July 3, 2006 to 10:30 p.m. EDT on July 3, 2006.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule would be in effect for only two and one half hours, vessel traffic could pass safely around the safety zone during the closure period, and advance notifications via safety marine informational broadcasts and Local Notice to Mariners will be made before and during the effective period.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect.

#### 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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 Chief Petty Officer Paul English at the address listed under **ADDRESSES**. 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.

#### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### 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 or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with

Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed 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.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling

procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(g), as it would establish a safety zone. A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether this rule should be categorically excluded from further environmental review.

#### 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 proposes to amend 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1(g), 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. From 8 p.m. EDT until 10:30 p.m. EDT on July 3, 2006, add temporary § 165.T06–032 to read as follows:

#### § 165.T01–032 Safety Zone; City of Lynn Fourth of July Fireworks Display, Nahant Bay, Massachusetts

(a) *Location.* The following area is a safety zone: All navigable waters of Nahant Bay within a 400-yard radius of the fireworks barge located at approximate position 42°27'686" N, 070°55'101" W.

(b) *Effective date.* This section is effective from 8 p.m. until 10:30 p.m. EDT on July 3, 2006.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, State, and Federal law enforcement vessels.

Dated: April 21, 2006.

**J.C. O'Connor III,**

*Commander, U.S. Coast Guard, Alternate Captain of the Port, Boston, Massachusetts.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-06-012]

RIN 1625-AA00

#### **Safety Zone: Town of Weymouth Fourth of July Celebration Fireworks, Weymouth, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone for the Town of Weymouth's Fourth of July Celebration Fireworks in Weymouth, Massachusetts, currently scheduled to occur on July 1, 2006 with a rain date of July 2, 2006. The safety zone is needed to protect the maritime public from the potential hazards posed by a fireworks display. The safety zone will prohibit entry into or movement within this portion of the Weymouth Fore River during its effective period.

**DATES:** Comments and related material must reach the Coast Guard on or before July 5, 2006.

**ADDRESSES:** You may mail comments and related material to Sector Boston 427 Commercial Street, Boston, MA. Sector Boston maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or

copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Chief Petty Officer Paul English, Sector Boston, Waterways Management Division, at (617) 223-5007.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-06-012), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related materials in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Sector Boston at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

This proposed rule establishes a safety zone on the navigable waters of the Weymouth Fore River within a five hundred (500) yard radius of the fireworks launch barge located at approximate position 42°15.3" N, 070°56.8" W. The safety zone would be in effect from 9 p.m. EDT until 11 p.m. EDT on July 1, 2006, with a rain date of July 2, 2006.

This safety zone would temporarily prohibit entry into or movement within the effected portion of the Weymouth Fore River and is needed to protect the maritime public from the potential dangers posed by a fireworks display.

**Discussion of Proposed Rule**

The Coast Guard is establishing a temporary safety zone in a portion of the Weymouth Fore River. The safety zone would be in effect from 9 p.m. EDT until 11 p.m. EDT on July 1, 2006 with a rain date of July 2, 2006. Marine traffic may transit safely outside of the safety zone during the event thereby allowing navigation of the Weymouth Fore River

except for the portion delineated by this rule. This safety zone will control vessel traffic during the fireworks event to protect the safety of the maritime public.

Due to the limited time frame of the firework display and because the zone leaves the majority of the Weymouth Fore River open for navigation, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

**Regulatory Evaluation**

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Although this rule would prevent vessel traffic from transiting a portion of the Weymouth Fore River during the fireworks event, the effect of this regulation would not be significant for several reasons: vessels will be excluded from the proscribed area for only two hours, vessels will be able to operate in the majority of the Weymouth Fore River during this time period; and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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 would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: the owners or