

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 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.T09-003 to read as follows:

§ 165.T09-003 Safety Zone, Kenosha Harbor, Kenosha, WI.

(a) *Location.* The following area is a temporary safety zone: All Waters of Lake Michigan and Kenosha Harbor within a 300-yard radius of position 42°-35'-14" N, 087°-48'29" W (NAD 83).

(b) *Effective period.* This regulation is effective from 8 p.m. to 10 p.m. on August 11, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, 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 Lake Michigan or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port Lake Michigan means any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his behalf and is aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16. 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 Lake Michigan or his on-scene representative.

Dated: May 16, 2007.

Bruce C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05-07-037]

RIN 1625-AA00

Safety Zone; Fireworks Display, Patuxent River, Calvert County, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone upon certain waters of the Patuxent River during a fireworks display. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a barge, located near Solomons, in Calvert County, Maryland. This action will restrict vessel traffic in a portion of the Patuxent River.

DATES: This rule is effective from 7:30 p.m. to 10 p.m. on July 5, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-07-037 and are available for inspection or copying at Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226-1791, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald L. Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at (410) 576-2674 or (410) 576-2693.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 11, 2007, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Fireworks Display, Patuxent River, Calvert County, MD" in the **Federal Register** (72 FR 18176). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

Each year, thousands of spectators attend outdoor fireworks displays discharged from vessels or floating platforms on or near the navigable waters of the United States. Accidental discharge of fireworks and falling hot embers are a safety concern during such events. The Coast Guard has the

authority to impose appropriate controls on marine events that may pose a threat to persons, vessels and facilities under its jurisdiction. The Coast Guard is establishing a safety zone that will be enforced during a fireworks display held over the Patuxent River, near Solomons, in Calvert County, Maryland. The rule is needed to control movement through a portion of the waterway that is expected to be populated by vessels seeking to view the fireworks display.

Discussion of Comments and Changes

The Coast Guard received no written correspondence in response to the NPRM. No public meeting was requested and none was held.

Discussion of Rule

On July 4, 2007, the Solomons Island Business Association will sponsor an Independence Day celebration fireworks display launched from two adjoining barges located on the Patuxent River near Solomons, in Calvert County, Maryland. The planned event includes an aerial fireworks display beginning at 9 p.m. Due to the need for vessel control during the fireworks display, vessel traffic will be restricted to provide for the safety of spectators and transiting vessels.

The purpose of this rule is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to falling embers or other debris associated with a fireworks display from a barge. This rule establishes a safety zone on the waters of the Patuxent River, within a radius of 400 yards around a fireworks barge, which will be located at position latitude 38° 19' 03.0" N, longitude 076° 26' 07.6" W. The Coast Guard anticipates a large recreational boating spectator fleet during this event. The rule will impact the movement of all vessels operating in a specified area of the Patuxent River. Interference with normal port operations is unlikely; however, if required, will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled event.

Regulatory Evaluation

This 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.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this 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 will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities: the owners or operators of vessels intending to operate, remain or anchor within certain waters of the Patuxent River, within a radius of 400 yards around a fireworks barge located at position latitude 38° 19' 03.0" N, longitude 076° 26' 07.6" W, from 7:30 p.m. to 10 p.m. on July 4, 2007, and if necessary due to inclement weather, from 7:30 p.m. to 10 p.m. on July 5, 2007. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for two and one-half hours, commercial vessel traffic in this area is limited, vessels not constrained by their draft may proceed safely around the safety zone, and the Coast Guard will issue maritime advisories widely available to users of the river before the effective period.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. 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.

Collection of Information

This rule calls 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 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 rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 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 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 might disproportionately affect children.

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.

Energy Effects

We have analyzed this 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 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.ID 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 concluded 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, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule establishes a safety zone.

A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” will be available in the docket where indicated under **ADDRESSES**.

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 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. 1226, 1231; 46 U.S.C. Chapter 701; 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 temporary § 165.T05–037 to read as follows:

§ 165.T05–037 Safety zone; Fireworks Display, Patuxent River, Calvert County, MD.

(a) *Location.* The following area is a safety zone: All waters of the Patuxent River near Solomons, in Calvert County, Maryland, surface to bottom, within a radius of 400 yards around a fireworks barge which will be located at position latitude 38° 19' 03.0" N, longitude 076° 26' 07.6" W. All coordinates reference Datum NAD 1983.

(b) *Definition.* As used in this section the *designated representative* means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulations.* The general regulations governing safety zones, found in Sec. 165.23, apply to the safety zone described in paragraph (a) of this section.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Captain of the Port, Baltimore, Maryland or his designated representative.

(2) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port or his designated representative by telephone at (410) 576–2693 or by marine band radio on VHF channel 16 (156.8 MHz).

(3) All Coast Guard vessels enforcing this safety zone can be contacted on marine band radio VHF channel 16 (156.8 MHz).

(4) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer

on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(d) *Enforcement period.* This section will be enforced from 7:30 p.m. to 10 p.m. on July 4, 2007, or if necessary due to inclement weather, from 7:30 p.m. to 10 p.m. on July 5, 2007 instead.

Dated: May 15, 2007.

Brian D. Kelley,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[COTP San Francisco Bay 07–019]

RIN 1625–AA00

Safety Zones; Whales Transiting the San Francisco Bay and Delta Region, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary, moving safety zones on the navigable waters of the San Francisco Bay and Delta Region to contribute to the safety of the boating public where whales have been sighted swimming up river from the San Francisco Bay. These safety zones are established to ensure the safety of persons and vessels from hazards, injury, and damage associated with higher-than-normal levels of recreational boating traffic on the water as individuals attempt to view the whales. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zones without permission of the Captain of the Port or his designated representative.

DATES: This rule is effective from 12:01 a.m. May 17, 2007, until 11:59 p.m. June 5, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of the docket COTP San Francisco Bay 07–019 and are available for inspection or copying at Coast Guard Sector San Francisco, 1 Yerba Buena Island, San Francisco, California, 94130, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 556–2950 extension 136.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard only recently learned of whales transiting the bay, river and delta region. Any delay in implementing this rule would have been impracticable and contrary to the public interest since immediate action was necessary to protect the public from hazards associated with the transiting whales.

For the same reasons listed in the previous paragraph, 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**. Any delay in the effective date of this rule would expose mariners to the dangers posed by the whales.

Background and Purpose

On May 14, 2007 the presence of possibly four and at least two whales swimming northerly in the Sacramento River was reported to the Coast Guard. The presence of these whales was confirmed by the Coast Guard and the National Oceanic and Atmospheric Administration. These safety zones are established to ensure the safety of persons and vessels from hazards, injury, and damage associated with higher-than-normal levels of recreational boating traffic on the water as individuals attempt to view the whales. The Coast Guard has established that there are two Humpback whales, and these safety zones will apply to each whale individually.

Discussion of Rule

The Coast Guard is establishing temporary, moving safety zones in the navigable waters of the San Francisco Bay and Delta Region wherever the whales are located. While the whales are in transit these safety zones will apply to the navigable waters around and under each whale within a radius of 500 yards. The effect of the temporary, moving safety zones will be to restrict general navigation in the vicinity of the whales while the whales transit the waters of the bay, and delta. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the safety zone. These safety zones