

Captain of the Port (COTP), Boston or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative on VHF Channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, vessel operators must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: May 25, 2007.

**James L. McDonald,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 07-022]

RIN 1625-AA00

#### **Safety Zone; Fireworks Extravaganza, City of Antioch, San Francisco Bay, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary, moving safety zone in the navigable waters of the San Joaquin River for the loading, transport, and launching of fireworks used during the City of Antioch Fireworks Extravaganza, to be held on July 4, 2007. This safety zone is intended to prohibit vessels and people from entering into or remaining within the regulated areas in order to ensure the safety of participants and spectators.

**DATES:** This rule is effective from 8 a.m. to 9:30 p.m. on July 4, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of the docket COTP San Francisco Bay 07-022 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 United States Coast Guard Sector San Francisco, at (415) 556-2950 extension 136, or the 24-hour Command Center at (415) 399-3547.

## SUPPLEMENTARY INFORMATION:

### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Logistical details surrounding the event were not finalized and presented to the Coast Guard in time to draft and publish an NPRM. As such, the event would occur before the rulemaking process was complete. Because of the dangers posed by the pyrotechnics used in this fireworks display, this safety zone is necessary to provide for the safety of event participants, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

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 pyrotechnics used in this fireworks display.

### Background and Purpose

The City of Antioch will sponsor a fireworks display on July 4, 2007 in the waters of the San Joaquin River. The fireworks display is meant for entertainment purposes. This temporary, moving safety zone is issued to establish a temporary restricted area in the San Joaquin River around the fireworks launch barge during loading of the pyrotechnics, during the transit of the barge to the display location, and during the fireworks display. This restricted area around the launch barge is necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics on the fireworks barge.

### Discussion of Rule

The Coast Guard is establishing a temporary, moving safety zone in the navigable waters of the San Joaquin River near Antioch's shoreline. During the loading of the fireworks barge, while the barge is being towed to the display location, and until the start of the fireworks display, the temporary, moving safety zone applies to the navigable waters around and under the fireworks barge within a radius of 100 feet. Fifteen minutes prior to and during the twenty minute fireworks display, the area to which the temporary safety zone applies will increase in size to encompass the navigable waters around and under the fireworks barge within a radius of 1,000 feet. Loading of the

pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on July 4, 2007, and will take place at Fulton Shipyard, 307 Fulton Shipyard Road, Antioch, California. Towing of the barge from Fulton Shipyard to the display location is scheduled to take place between 7 p.m. and 9 p.m. on July 4, 2007. During the fireworks display, scheduled to commence at approximately 9 p.m., the fireworks barge will be located approximately 600 feet off of Antioch's shoreline in approximate position 38°01'21" N, 121°49'06" W and travel east in a straight line to 38°01'11" N, 121°48'15" W.

The effect of the temporary, moving safety zone will be to restrict navigation in the vicinity of the fireworks barge while the fireworks are loaded at Fulton Shipyard, during the transit of the fireworks barge, and until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep spectators and vessels a safe distance away from the fireworks barge to ensure the safety of participants, spectators, and transiting vessels.

Unauthorized persons or vessels are prohibited from entering or remaining in a safety zone. Vessels or persons violating this section will be subject to both criminal and civil penalties.

### 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.

Although this regulation prevents traffic from transiting a portion of the San Joaquin River during the event, the effect of this regulation will not be significant due to the small size and limited duration of the regulated area. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

### 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 is not expected to have a significant economic impact on a substantial number of entities, some of which may be small entities. This rule may affect owners and operators of pleasure craft engaged in recreational activities and sightseeing. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the area, (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of the San Joaquin River to engage in these activities, (iii) this rule will encompass only a small portion of the waterway for a limited period of time, and (iv) the maritime public will be advised in advance of this safety zone via public notice to mariners.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions, options for compliance, or assistance in understanding this rule, please contact Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 556-2950 extension 136.

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).

#### **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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This rule will not affect 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 does not create an environmental risk to health or risk to safety that may 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 M16475.1D 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 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.

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.T11–198 to read as follows:

### § 165.T11–198 Safety Zone; Fireworks Extravaganza, City of Antioch, San Francisco Bay, CA.

(a) *Location.* A temporary, moving safety zone is established for the waters of the San Joaquin River surrounding a barge used as the launch platform for a fireworks display. During the loading of the fireworks barge, during the transit of the fireworks barge to the display location, and until fifteen minutes prior to the start of the fireworks display, the restricted area encompasses the navigable waters around and under the fireworks barge within a radius of 100 feet. During the fifteen minutes preceding the fireworks display and during the twenty minute fireworks display itself, the safety zone increases in size to encompass the navigable waters around and under the fireworks launch barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on July 4, 2007, and will take place at Fulton Shipyard in Antioch. Towing of the barge from Fulton Shipyard to the display location is scheduled to take place between 7 p.m. and 9 p.m. on July 4, 2007. During the fireworks display, scheduled to start at approximately 9 p.m. on July 4, 2007, the barge will be located approximately 600 feet off from Antioch's shoreline in the San Joaquin River in approximate position 38°01'21" N, 121°49'06" W and travel east in a straight line to 38°01'11" N, 121°48'15" W.

(b) *Effective period.* This section is effective from 8 a.m. through 9:30 p.m. on July 4, 2007. If the event concludes prior to the scheduled termination time, the Coast Guard will cease enforcement of the safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone by all vessels and persons is prohibited, unless specifically authorized by the Captain of the Port San Francisco, or his designated representative.

(d) *Enforcement.* All persons and vessels shall comply with the

instructions of the Coast Guard Captain of the Port, or the designated on-scene patrol personnel. Patrol personnel can be comprised of commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, State, and Federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. The U.S. Coast Guard may be assisted in the patrol and enforcement of this safety zone by local law enforcement as necessary.

Dated: June 4, 2007.

**W.J. Uberti,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01–07–067]

RIN 1625–AA00

### Safety Zone: Summer Solstice/U.S. Chamber of Commerce Fireworks, Mystic Seaport, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Summer Solstice/U.S. Chamber of Commerce Fireworks from a barge off of Mystic Seaport, Mystic River, Mystic, CT. The safety zone is necessary to protect the life and property of the maritime community from the hazards posed by the fireworks display. Entry into or movement within this safety zone during the enforcement period is prohibited without approval of the Captain of the Port, Long Island Sound.

**DATES:** This rule is effective from 9 p.m. to 10 p.m. on June 25, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01–07–067 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant D. Miller, Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468–4596.

## 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 did not receive an Application for Approval of Marine Event for this event until April 27, 2007, thereby making an NPRM impracticable. A delay or cancellation of the fireworks display in order to accommodate a full notice and comment period would be contrary to the public interest.

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 encountered in this regulation's effective date would be impracticable and contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of Mystic River off Mystic Seaport, Mystic, CT and to protect the maritime public from the hazards associated with this fireworks event.

The safety zone should have minimal negative impact on the public and navigation, because it will be enforced for a one-hour period only. Also, the area closed by the safety zone is minimal thus allowing vessels to continue to transit the Mystic River by going around the safety zone.

### Background and Purpose

The Summer Solstice/U.S. Chamber of Commerce Fireworks display will be taking place from a barge in Mystic River, off Mystic Seaport, Mystic, CT from 9 p.m. to 10 p.m. on June 25, 2007. This safety zone is necessary to protect the life and property of the maritime public from the hazards posed by the fireworks display. It will protect the maritime public by prohibiting entry into or movement within this portion of Mystic River for a total of one hour from beginning to completion of the event.

### Discussion of Rule

This regulation establishes a temporary safety zone on the navigable waters of Mystic River off Mystic Seaport, Mystic, CT within a 400-foot radius of the fireworks barge located at approximate position 41°22.068' N, 071°57.925' W. The temporary safety zone will be outlined by temporary marker buoys installed by the event organizers.

This action is intended to prohibit vessel traffic in a portion of Mystic River off Mystic Seaport, Mystic, CT to provide for the protection of life and property of the maritime public. The