

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

[Docket No. USCG–2011–0907]

RIN 1625–AA00

Safety Zone; The Old Club Cannnade, Lake St. Clair, Muscamoot Bay, Harsens Island, MI**AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake St. Clair, Muscamoot Bay, Harsens Island, MI. This safety zone is intended to restrict vessels from a portion of Lake St. Clair during the Cannnade event.

DATES: This rule is effective from 1:30 p.m. through 4:30 p.m. on October 15, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0907 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0907 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9580, e-mail Adrian.F.Palomeque@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

The Coast Guard is issuing this temporary final 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 waiting for a notice and comment period to run would be impracticable and contrary to the public interest. Notice of this event was not received in sufficient time for the Coast Guard to solicit public comments before the event’s start. Thus, waiting for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard’s ability to protect the public from the hazards associated with maritime cannon firing 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**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

Background and Purpose

On October 15, 2011, a private party is holding a land based live fire event that will include cannon balls fired from a point on Lake St. Clair. The cannon firing will occur between 1:30 p.m. and 4:30 p.m., October 15, 2011. The Captain of the Port Detroit has determined that this event will create public hazards. Particularly, cannon balls being fired into Lake St. Clair could cause death, serious bodily harm, or property damage.

Discussion of Rule

Because of the aforementioned hazards, the Captain of the Port Detroit has determined that a temporary safety zone is necessary to ensure the safety of people and vessels during the firing of the cannons. The safety zone will encompass all waters on Lake St. Clair in an area bound by the coordinates starting at the cannon firing position located at 42°32.5′ N, 082°40.1′ W extending west to the Old Channel Light located at position 42°32.5′ N, 082°41.6′ W angling northeast to position 42°33.5′ N, 082°40.6′ W then angling southeast to the point of origin creating a triangle shaped safety zone from 1:30 p.m. until 4:30 p.m. on October 15, 2011. This area is near the southern end of Harsens Island in Muscamoot Bay. All geographic coordinates are North American Datum of 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene

representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because 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 around the launch platform will be relatively small and exist for only a minimal time. Thus, restrictions on vessel movement within any particular area of Lake St. Clair are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

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, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in

this portion of Lake St. Clair between 1:30 p.m. through 4:30 p.m. on October 15, 2011.

This safety zone will not have a significant economic impact on a substantial number of small entities because vessels can easily transit around the zone. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the 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 (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.

Taking of Private Property

This rule will not cause 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, as supplemented by Executive Order 13566, 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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, 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 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 is categorically excluded, under figure 2–1, paragraph (34)(g) of the Instruction because it involves the establishment of a safety zone. An environmental analysis checklist and a 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. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 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.T09–0907 to read as follows:

§ 165. T09–0907 Safety zone; The Old Club Cannoneade, Lake St. Clair, Harsens Island, MI.

(a) *Location.* The safety zone will encompass all waters on Lake St. Clair in an area bound by the coordinates starting at the cannon firing position

located at 42°32.5' N, 082°40.1' W extending west to the Old Channel Light located at position 42°32.5' N, 082°41.6' W angling northeast to position 42°33.5' N, 082°40.6' W then angling southeast to the point of origin creating a triangle shaped safety zone from 1:30 p.m. until 4:30 p.m. on October 15, 2011. This area is near the southern end of Harsens Island in Muscamoot Bay. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective and Enforcement Period.* This rule is effective and will be enforced from 1:30 p.m. through 4:30 p.m. on October 15, 2011.

(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 Detroit, 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 Detroit or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so.

(5) 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 or his on-scene representative.

Dated: September 26, 2011.

J.E. Ogden,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-0489]

RIN 1625-AA87

Security Zones; Captain of the Port Lake Michigan Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: Based on a review of safety and security zones around critical infrastructure in the Chicago area, the Captain of the Port Sector Lake Michigan has determined that to better protect such infrastructure, while also mitigating burdens on waterway users, it is necessary to amend the Lake Michigan at Chicago Harbor & Burnham Park Harbor—Safety and Security Zone regulation and the Security Zones; Captain of the Port Lake Michigan regulation. Specifically, the Coast Guard is amending these two regulations to reduce the size of an existing security zone, disestablish another security zone, and create three new security zones.

DATES: This rule is effective November 14, 2011.

ADDRESSES: Comments and material received from the public, if any, as well as documents indicated in this preamble as being available in the docket, are part of docket USCG-2011-0489 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call LTJG Furyisa Miller, Waterways Department, Coast Guard MSU Chicago, Chicago, IL at (630) 986-2122 or e-mail her at Furyisa.I.Miller@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 9, 2011, we published a notice of proposed rulemaking entitled Security Zones; Captain of the Port Lake Michigan Zone in the *Federal Register* (76 FR 48751). We received no comments on this rule. No public meeting was requested, and none was held.

Background and Purpose

The Coast Guard recently worked with local governmental agencies to review the safety and security zones around critical infrastructure in the Chicago area. Based on this review, the Captain of the Port Sector Lake Michigan had determined that to better protect critical infrastructure while also mitigating burdens on waterway users it is necessary to reduce the size of an existing security zone, disestablish an existing security zone, and establish three new security zones.

Discussion of Comments and Changes

No comments were received regarding this rule, and the regulatory text of this final rule is the same as in the proposed rule; we made no changes.

Discussion of Rule

For the reasons discussed above, the Captain of the Port Sector Lake Michigan amends 33 CFR 165.904 and 165.910. Specifically, this rule will reduce the size of the safety and security zone entitled Lake Michigan at Chicago Harbor & Burnham Park Harbor-Safety and Security Zone, which is located at 33 CFR 165.904. The revised zone will be significantly reduced in size due to the disestablishment of Meigs Airfield and the need to secure only Burnham Park harbor during high profile visits that require security zone enforcement. This reduction of the Chicago Harbor & Burnham Park Harbor-Safety and Security Zone will result in the zone encompassing all U.S. navigable waters of Lake Michigan from the southeast corner of Northerly Island shoreward of a line across the entrance of the harbor connecting coordinates 41°51'09" N, 087°36'36" W and 41°51'11" N, 087°36'22" W.

In addition to reducing the size of the security zone described in § 165.904(a), this rule also disestablishes a security zone. Specifically, this rule disestablishes the security zone in 33 CFR 165.910(a)(1) entitled Security Zones; Captain of the Port Lake Michigan; Navy Pier Northside.

Finally, this rule establishes three new security zones in 33 CFR 165.910. The first new security zone, designated paragraph (a)(1) which was formerly used for the Navy Pier Northside