

**§ 165.T11-595 Safety Zone; San Diego Shark Fest Swim; San Diego Bay, San Diego, CA.**

(a) *Location.* The limits of the safety zone will be the navigable waters of the San Diego Bay bounded by the following coordinates: 32°42.17' N, 117°09.83' W; 32°41.66' N, 117°09.88' W; along the shore line to 32°41.29' N, 117°09.77' W; 32°41.50' N, 117°09.73' W; 32°42.05' N, 117°09.68' W; along the shore line to 32°42.17' N, 117°09.83' W.

(b) *Enforcement Period.* This section will be enforced from 9:15 a.m. to 10:15 a.m. on October 6, 2013. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *Designated representative*, means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.*

(1) Entry into, transit through, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The PATCOM may be contacted on VHF-FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) 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.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: September 6, 2013.

**S.M. Mahoney,**

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

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2013-0840]

RIN 1625-AA00

**Safety Zone; Catawba Island Club Wedding Event, Catawba Island Club, Catawba Island, OH**

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety zone in the waters of Lake Erie in the vicinity of Port Clinton, OH. This temporary safety zone is necessary to protect people and vessels from the hazards associated with this event. This zone is intended to restrict vessels from a portion of Lake Erie during the fireworks event at Catawba Island.

**DATES:** This rule will be effective and enforced from 7:50 p.m. until 8:30 p.m. on October 5, 2013.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2013-0840 and are available online by going to [www.regulations.gov](http://www.regulations.gov), inserting USCG-2013-0840 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 final rule, contact or email MST1 Ian M. Fallon, U.S. Coast Guard Marine Safety Unit Toledo, at (419) 418-6036 or [Ian.M.Fallon@uscg.mil](mailto:Ian.M.Fallon@uscg.mil). If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Table of Acronyms**

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking  
TFR Temporary Final Rule  
CED Categorical Exclusion Determination

**A. Regulatory History and 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 doing so would be impracticable and contrary to the public interest. The details of this emergent event were not received in sufficient time for the Coast Guard to solicit public comments before the start of the fireworks. Thus, waiting for a notice and comment period to run would inhibit the Coast Guard from protecting the public and vessels from the hazards associated with the maritime fireworks displays.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary 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.

**B. Basis and Purpose**

A fireworks display will be taking place on Lake Erie in the vicinity of Port Clinton, OH. The temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with fireworks display. Such hazards include the explosive danger of fireworks and debris falling into the water that may cause death or serious bodily harm. Establishing a safety zone to control vessel movement around the location of the event will help ensure the safety of persons and property at this event and help minimize the associated risks such as accidental detonations, projectiles, and falling debris.

**C. Discussion of Rule**

The temporary safety zone will encompass all U.S. navigable waters of Lake Erie within a 250-yard radius of the fireworks launch site located at position 41°34'18.10" N, 082°51'18.70" W, North American Datum 1983 (NAD83).

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. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16. All persons and vessels shall comply with the instructions of the Coast Guard

Captain of the Port or the on-scene representative.

#### D. Regulatory Analyses

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

##### 1. 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 Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. 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 created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize their impact on navigable waters. Furthermore, restrictions on vessel movement within the area of the safety zone expected to be minimal. Under certain conditions, vessels may still transit through the safety zone when permitted by the Captain of the Port.

##### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in designated portions of Sandusky Bay, OH from 7:50 p.m. through 8:30 p.m. on October 5, 2013.

The safety zone will not have a significant economic impact on a

substantial number of small entities for the following reasons: The safety zone will be activated, and thus subject to enforcement, for only a short period of time. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the activation of the zone, we would issue local Broadcast Notice to Mariners.

##### 3. 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 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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.

##### 4. 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).

##### 5. Federalism

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 determined that this rule does not have implications for federalism.

##### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.

##### 7. 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.

##### 8. 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.

##### 9. 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.

##### 10. 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.

##### 11. 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.

##### 12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

##### 13. Technical Standards

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

#### 14. 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 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 the establishment of safety zone less than a week in duration. Therefore, it is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction and a CED and checklist are not required. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### 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.T09-0840 to read as follows:

#### § 165.T09-0840 Safety Zone; Catawba Island Club Wedding Event, Catawba Island Club, Catawba Island, OH.

(a) *Location.* The following area is a temporary safety zone: All U.S. navigable waters of Lake Erie within a 250-yard radius of the fireworks launch site located at position 41°34'18.10" N, 082°51'18.70" W, North American Datum 1983 (NAD83).

(b) *Effective and enforcement period.* The safety zone will be effective and enforced from 7:50 p.m. until 8:30 p.m. on October 5, 2013.

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

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Detroit or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port, Sector Detroit is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port, Sector Detroit to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Sector Detroit or his on-scene representative to obtain permission to do so. The Captain of the Port, Sector Detroit or his on-scene representative may be contacted via VHF Channel 16 or at 313-568-9464. 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, Sector Detroit, or his on-scene representative.

Dated: September 13, 2013.

**J.E. Ogden,**

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

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**BILLING CODE 9110-04-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2012-1069]

RIN 1625-AA00

#### Safety Zone; Chelsea River, Boston Inner Harbor, Boston, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is disestablishing the existing regulation for the Safety Zone: Chelsea River, Boston Inner Harbor, Boston, MA. Since the implementation of the regulation, physical changes have occurred within the confines of the safety zone, making the safety zone unnecessary.

**DATES:** This rule is effective on October 25, 2013.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG-2012-1069. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" Box and click "SEARCH." Click on Open Docket Folder on the line associated with the rulemaking. You may also visit the

Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation, West Building, 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 rule, call or email Mr. Mark Cutter, Coast Guard Sector Boston Waterways Management Division, telephone 617-223-4000, email [Mark.E.Cutter@uscg.mil](mailto:Mark.E.Cutter@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

#### Table of Acronyms

COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

#### A. Regulatory History and Information

On Wednesday, August 7, 2013 the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (78 FR 48085). We received one comment on the NPRM supporting the proposed action. Previously, on Thursday, January 31, 2013 the Coast Guard published an Advance notice of proposed rulemaking (ANPRM) in the **Federal Register** (78 FR 6782). There were 3 formal written comments received. There were two public meetings held in which verbal comments were received. The minutes of these public meetings are available in the docket.

#### B. Basis and Purpose

The legal bases for this rule are 33 U.S.C. 1231, 1233; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, and 160.5; Public Law 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

The original Chelsea Street Bridge was a bascule-type bridge owned by the City of Boston and constructed in 1939. It spanned the Chelsea River providing a means for vehicles to travel between Chelsea, MA and East Boston, MA. Several petroleum-product transfer facilities are located on the Chelsea River, upstream and downstream of the Chelsea Street Bridge. Transit of tank vessels through the bridge is necessary to access the petroleum facilities upstream of the bridge. The narrow, ninety-six foot horizontal span created a narrow passage through the bridge for larger vessels. Adding to the difficulty is