

(c) *Regulations.* (1) In accordance with the general safety zone regulations in § 165.23, entry of persons or vessels into this safety zone described in paragraph (a) of this section is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) To seek permission to enter, contact the COTP or a designated representative via VHF-FM channel 16, or through USCG Sector Upper Mississippi River at 314-269-2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size of the safety zone as flood conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate.

Dated: June 2, 2019.

**S.A. Stoermer,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2019-0415]

RIN 1625-AA00

#### Safety Zone; Harbor Beach Fireworks, Lake Huron, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 200-yard radius of a portion of Lake Huron, Harbor Beach, MI. This zone is necessary to protect spectators and vessels from potential hazards associated with the Harbor Beach Fireworks.

**DATES:** This temporary final rule is effective from 9:30 p.m. on July 12, 2019 through 11 p.m. on July 14, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2019-0415 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or email Tracy Girard, Prevention Department, Sector Detroit, Coast Guard; telephone 313-568-9564, or email [Tracy.M.Girard@uscg.mil](mailto:Tracy.M.Girard@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port Detroit  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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. The Coast Guard did not receive the final details of this fireworks display in time to publish an NPRM. As such, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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**. Delaying the effective date of this rule would inhibit the Coast Guard’s ability to protect participants, mariners and vessels from the hazards associated with this event.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Detroit (COTP) has determined that potential hazard associated with fireworks from 9:30 p.m. on July 12, 2019 through 11 p.m.

on July 14, 2019 will be a safety concern to anyone within a 200-yard radius of the launch site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks are being displayed.

##### IV. Discussion of the Rule

This rule establishes a safety zone from 9:30 p.m. on July 12, 2019 through 11 p.m. on July 14, 2019. The safety zone will encompass all U.S. navigable waters of Lake Huron, Harbor Beach, MI, within a 200-yard radius of position 43°50.77’ N, 082°38.63’ W (NAD 83). No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

##### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

##### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of Lake Huron from 9:30 p.m. on July 12, 2019 through 11 p.m. on July 14, 2019. Moreover, the Coast Guard will issue Broadcast Notice to Mariners (BNM) via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

##### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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.

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.

### C. 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).

### D. Federalism and Indian Tribal Governments

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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

### E. 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.

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (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 a safety zone lasting one and a half hours on two nights that will prohibit entry into a designated area. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### G. 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.

### 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:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0415 to read as follows:

#### § 165.T09–0415 Safety Zone; Harbor Beach Fireworks, Lake Huron, MI.

(a) *Location.* A safety zone is established to include all U.S. navigable waters of Lake Huron, Harbor Beach, within a 200-yard radius of position 43°50.77' N, 082°38.63' W (NAD 83).

(b) *Enforcement period.* The regulated area described in paragraph (a) of this section will be enforced from 9:30 p.m. until 11 p.m. on July 12, 2019 and July 13, 2019. In the case of inclement weather on July 12, 2019 or July 13, 2019, this safety zone will be enforced from 9:30 p.m. to 11 p.m. on July 14, 2019.

(c) *Regulations.* (1) No vessel or person may enter, transit through, or anchor within the safety zone unless authorized by the Captain of the Port Detroit (COTP), or his on-scene representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or his on-scene representative.

(3) The “on-scene representative” of COTP 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 Detroit to act on his behalf.

(4) Vessel operators shall contact the COTP or his on-scene representative to obtain permission to enter or operate within the safety zone. The COTP 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 regulated area must comply with all directions given to them by the COTP or his on-scene representative.

Dated: June 12, 2019.

**Jeffrey W. Novak,**

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

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 4

RIN 2900-AQ43

#### Schedule for Rating Disabilities; Infectious Diseases, Immune Disorders, and Nutritional Deficiencies

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities (VASRD) by revising the portion of the schedule that addresses infectious diseases, immune disorders, and nutritional deficiencies. The effect of this action is to ensure that the rating schedule uses current medical terminology and to provide detailed and updated criteria for evaluation of infectious diseases, immune disorders, and nutritional deficiencies for disability rating purposes.

**DATES:** *Effective Date:* This final rule is effective August 11, 2019.

**FOR FURTHER INFORMATION CONTACT:**

Ioulia Vvedenskaya, M.D., M.B.A., Medical Officer, Part 4 VASRD Regulations Staff (211C), Compensation Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, *Ioulia.Vvedenskaya@va.gov*, (202) 461-9700 (This is not a toll-free telephone number).

**SUPPLEMENTARY INFORMATION:** VA published a proposed rule in the *Federal Register* at 84 FR 1678 on February 5, 2019, to amend 38 CFR 4.88a and 4.88b, the portion of the VASRD dealing with infectious diseases, immune disorders, and nutritional deficiencies. VA provided a 60-day public comment period, and interested persons were invited to submit written comments on or before April 8, 2019. VA received 32 comments.

One commenter supported VA's intent to eliminate obsolete terminology and substitute the most up-to-date terms and definitions for conditions such as Chronic Fatigue Syndrome. The commenter noted that this rule would help to achieve the important public

policy goal of clear, effective communication among veterans, their health care providers, and the Department. Additionally, the commenter observed that it is important that what appears to be "catch-all" language appended to the respective disease evaluation categories be correctly phrased to minimize the likelihood that deserving patients will be excluded from care. The commenter suggested that VA should consider identifying the "residual effects" categories explicitly so the rating decisions and appeals would be most favorable to the veterans seeking care. The commenter further suggested that VA consider expressly recognizing that any ambiguity in the rules regarding covered residual effects should be resolved in the veteran's favor. VA makes no changes based on these comments. The proposed diagnostic codes provided examples of common residuals of specific diseases, but also made clear that the instruction to rate "any residual disability" from a disease "includes, but is not limited to" the listed examples. We believe this language is sufficiently clear and broad to ensure that any residuals identified in individual cases may be appropriately evaluated. We do not believe it is necessary or advisable to seek to list in these regulations all of the conditions that may be found to be residuals of diseases in specific cases. Further, because these rules do not restrict the conditions that may be found in individual cases to be residuals of a disease, we do not believe the regulation is restrictive or ambiguous on that issue. We note also that the principle of resolving reasonable doubt in favor of veterans is established in 38 CFR 3.102 and 4.3.

One commenter expressed an opinion that this regulatory update can be viewed as a bureaucratic move to disenfranchise veterans eligible for unspecified services. The commenter did not offer any specific recommendations and did not propose any actions. VA makes no changes based on this comment.

One commenter stated that vector-borne diseases (VBD) are of major importance to human health both locally and globally. In addition, the commenter highlighted that the precise diagnoses of many of these diseases remains a major challenge because of the lack of comprehensive data available on accurate and reliable diagnostic methods, specifically for borreliosis (Lyme disease). The commenter did not offer a specific recommendation or a course of action. VA makes no changes based on this comment.

Two commenters were concerned that by implementing a General Rating Formula (GRF) for infectious diseases, VA would drastically change veterans' ratings from 100 percent to zero percent, dependent upon whether the disease is deemed active or resolved based upon a laboratory test. Commenters noted that there is considerable evidence that laboratory tests may not always be deemed reliable and that each laboratory may have differing reference ranges leading to improper reading of results. However, VA's proposed GRF did not alter the rating principles for infectious diseases, which currently provide—in individual diagnostic codes rather than a GRF—for evaluation of active diseases and residuals. Instead, we updated the format of the rating schedule to indicate that the GFR for infectious diseases would be consistent for rating these conditions and also be similar to the use of a GFR in other sections of the VASRD, such as in 38 CFR 4.97, 4.116, 4.130, and others. Currently, VA assigns a 100-percent evaluation for each specific infectious disease during an active period; thereafter, any residual functional impairment from the infectious disease determines the level of disability. VA pointed out that its proposed GFR would be a familiar concept for Veterans Benefits Administration (VBA) employees and minimize the risk for error by providing one criterion applicable to multiple diagnostic codes (DCs). Additionally, VA did not propose any laboratory testing in its GFR, but instead we proposed to confirm the recurrence of active infection for certain conditions (DCs 6301, 6304, 6311, 6312, 6316) with overlapping clinical symptoms such as pallor, fever and hepatosplenomegaly. By adding a specific reference to laboratory testing for each infection, we made an effort to distinguish one infection from another. VA makes no changes based on this comment.

Additionally, commenters were concerned that the proposed GRF would not consider veterans' ability to maintain gainful employment because many infectious diseases, even after negative laboratory test results, can cause long-lasting residual symptoms that may last up to eight weeks or longer and that lingering, residual symptoms would adversely affect a veteran's normal functioning and his/her ability to maintain gainful employment. The proposed GRF is designed to assess permanent functional impairment that resulted from long-lasting residual symptoms rather than rely solely on a specific laboratory test. The proposed