

**§ 165.T09-0757 Safety Zone; Leif Erickson Day Row and Run, Charlevoix, MI.**

(a) *Location.* The following area is a temporary safety zone: beginning at the paddle coral located at Depot Beach Park and finishing at Ferry Beach Park, all navigable waters within 200 yards of a line drawn between beginning point of 045°19'08.9" N 085°14'28.4" W, to the finishing point of 045°18'10.4" N 085°14'50.4" W

(b) *Effective and enforcement period.* This section is effective and will be enforced on October 5, 2019 from 9:00 a.m. through 12:00 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this temporary safety zone is prohibited unless authorized by the Captain of the Port, Sault Sainte Marie or his or her on-scene representative.

(2) This temporary safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sault Sainte Marie or his on-scene representative.

(3) The "on-scene representative" of the Captain of the Port, Sault Sainte Marie is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Sault Sainte Marie to act on his or her behalf. The on-scene representative of the Captain of the Port Sault Sainte Marie will be aboard a Coast Guard vessel.

(4) Vessel Operators desiring to enter or operate within the temporary safety zone shall contact the Captain of the Port Sault Sainte Marie, or his on-scene representative to obtain permission to do so. The Captain of the Port Sault Sainte Marie or his or her on-scene representative may be contacted via VHF Channel 16 or at (906) 635-3319. Vessel operators given permission to enter or operate in the temporary safety zone must comply with all directions given to them by the Captain of the Port Sault Sainte Marie or his or her on-scene representative.

Dated: September 17, 2019.

**P.S. Nelson,**

*Captain, U. S. Coast Guard, Captain of the Port Sault Sainte Marie.*

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

[Docket Number USCG-2019-0758]

RIN 1625-AA00

**Safety Zone; Mackinaw City Fall Colors Fireworks, Mackinaw City, MI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Straits of Mackinac near Mackinaw City, MI. The temporary safety zone is needed to protect vessels and spectators from the hazards associated with a fireworks show during the Mackinaw City Fall Colors Fireworks. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Sault Sainte Marie or a designated representative.

**DATES:** This rule is effective from 8:00 p.m. on October 4, 2019 through 10:00 p.m. on October 12, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2019-0758 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 rule, call or email MST2 Onnalee A. Blackledge, Waterways Management, Coast Guard Sector Sault Sainte Marie, U.S. Coast Guard; telephone 906-253-2443, email [sssm prevention@uscg.mil](mailto:sssm prevention@uscg.mil).

**SUPPLEMENTARY INFORMATION:****I. Table of Abbreviations**

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

**II. Background, Purpose, and Legal Basis**

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 the requested safety zone with sufficient time for a comment period to run before the start of the fireworks display. Thus, delaying this rule to wait for a notice and comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect the public from the potential hazards associated with the fireworks display.

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, a 30-day notice period would be impracticable.

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

The legal basis for this final rulemaking is found at 46 U.S.C 70034; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

On October 4, 2019 and October 11, 2019 from 8:00 p.m. through 10:00 p.m., Mackinaw City will have a fireworks display at position 45°46'28.5" N, 084°43'12.0" W (NAD 83). Alternative rain dates will be October 5, 2019 and October 12, 2019 and enforced from 8:00 p.m. to 10:00 p.m. on those days. The maximum sized shell to be used is six inches and requires a temporary safety zone of at least 420 feet. The State of Michigan regulates fireworks displays. This action is only for the temporary safety zone.

The Captain of the Port Sault Sainte Marie has determined that potential hazard associated with these fireworks will be a safety concern to anyone within a 420-foot radius of the launch site. Such hazards include premature and accidental detonations, falling and burning debris, and collisions among spectator vessels. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the temporary safety zone while the fireworks are being displayed.

**IV. Discussion of the Rule**

This rule establishes a temporary safety zone from 8:00 p.m. through 10:00 p.m. on October 4, 2019 and October 11, 2019. Alternative rain dates will be October 5, 2019 and October 12, 2019 and enforced from 8:00 p.m. to

10:00 p.m. on those days. This rule is necessary to protect the safety of spectators and vessels during the aforementioned display. The temporary safety zone will encompass all U.S. waters of Lake Huron within a 420 feet radius from 45°46'28.5" N, 084°43'12.0" W (NAD83). The rule will be enforced to mitigate risks associated with the display.

The duration of the zone is intended to protect the safety of life and property in these navigable waters during the scheduled fireworks display. No vessel or person will be permitted to enter the temporary safety zone without obtaining permission from the Captain of the Port or a designated representative. The Captain of the Port or a designated representative may be contacted via VHF Channel 16 or at 906-635-3237.

## 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-day for this temporary safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small-designated area of Lake Huron near Mackinac City for two hours on two days. Moreover, the Coast Guard will issue Broadcast Notice to Mariners 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 temporary 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 would 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.

### 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 Management 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 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 temporary safety zone lasting two hours that will prohibit entry into a designated area. Normally such actions are 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 protestors. 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 record keeping 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.T09–0758 to read as follows:

**§ 165.T09–0758 Safety Zone; Mackinaw City Fall Colors Fireworks, Mackinaw City, MI.**

(a) *Location.* The temporary safety zone will encompass all U.S. navigable waters of Lake Huron within a 420-foot radius of 45°46′28.5″ N, 084°43′12.0″ W (NAD 83).

(b) *Enforcement period.* This section will be enforced on October 4, 2019 and October 11, 2019 from 8:00 p.m. through 10:00 p.m. Alternative rain dates will be October 5, 2019 and October 12, 2019 and enforced from 8:00 p.m. to 10:00 p.m. on those dates.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within this temporary safety zone is prohibited unless authorized by the Captain of the Port Sault Sainte Marie or an on-scene representative.

(2) This temporary safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Sault Sainte Marie or an on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Sault Sainte Marie is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Sault Sainte Marie to act on his or her behalf. The on-scene representative of the Captain of the Port Sault Sainte Marie will be aboard a Coast Guard vessel.

(4) Vessel Operators desiring to enter or operate within the temporary safety zone shall contact the Captain of the Port Sault Sainte Marie, or an on-scene representative to obtain permission to do so. The Captain of the Port Sault Sainte Marie or his on-scene representative may be contacted via VHF Channel 16 or at (906) 635–3237. Vessel operators given permission to enter or operate in the temporary safety

zone must comply with all directions given to them by the Captain of the Port, Sault Sainte Marie or his on-scene representative.

Dated: September 17, 2019.

**P.S. Nelson,**

*Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.*

[FR Doc. 2019–20735 Filed 9–27–19; 8:45 am]

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

[Docket Number USCG–2019–0794]

RIN 1625–AA00

**Safety Zone, Saint Simons Sound, GA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** On September 08, 2019, the Captain of the Port (COTP) Savannah issued an Emergency Safety Zone in response to the grounding/capsizing of the M/V GOLDEN RAY (31°07′39.66 North, 081°24′10.58 West, between Saint Simons Lighthouse and the north end of Jekyll Island, in the vicinity of green buoy #19). This Emergency Safety Zone prohibited all vessels from approaching within 0.5 nautical miles of M/V GOLDEN RAY, unless authorized by the COTP. As of September 13, 2019, this Emergency Safety Zone remained in effect for all vessels of 500 GT and above. No vessels 500 GT and above were able to transit within 0.5 nautical miles of the M/V GOLDEN RAY unless specifically authorized by the COTP. For all other vessels, the Emergency Safety Zone was enforced for 150 yards surrounding the site. No vessel could transit within 150 yards of the M/V GOLDEN RAY unless specifically authorized by the COTP. As of September 19, 2019, USCG Captain of the Port Savannah has adjusted the safety zone surrounding the M/V GOLDEN RAY, so that no vessel is authorized access within 150 yards of the M/V GOLDEN RAY, unless authorized by the Captain of the Port. The previous safety zone established on September 12, 2019 is terminated.

**DATES:** This rule is effective without actual notice from September 30, 2019 until no longer deemed necessary by the COTP Savannah. For the purposes of enforcement, actual notice will be used from September 19, 2019 through September 30, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2019–0794 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 rule, call or email MST1 Rachel Crowe, Marine Safety Unit Savannah Office of Waterways Management, Coast Guard; telephone 912–652–4353, extension 243, or email [Rachel.M.Crowe@uscg.mil](mailto:Rachel.M.Crowe@uscg.mil).

**SUPPLEMENTARY INFORMATION:****I. Table of Abbreviations**

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
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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 due to the emergent situation. Immediate action is needed to respond to the potential safety hazards created by the M/V GOLDEN RAY. The Coast Guard received information on September 8, 2019 regarding the vessel laying over on its side and impeding the navigable channel. Because of the on-going dangers posed by the grounded M/V GOLDEN RAY, this safety zone is necessary to provide for the safety of persons, vessels, and the marine environment in the incident area. Therefore, it is impracticable to delay promulgating this rule, as it is necessary to protect the safety of waterway users.

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 be impracticable because immediate action is needed to respond to the potential safety hazards associated with the M/V GOLDEN RAY.