

**(j) Exceptions to EASA AD 2023–0058**

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0058.

(2) Paragraph (3) of EASA AD 2023–0058 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2023–0058 is at the applicable “limitations” as incorporated by the requirements of paragraph (3) of EASA AD 2023–0058, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2023–0058.

(5) This AD does not adopt the “Remarks” section of EASA AD 2023–0058.

**(k) New Provisions for Alternative Actions and Intervals**

After the existing maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2023–0058.

**(l) Terminating Action for Certain Actions in AD 2010–26–05**

Accomplishing the actions required by paragraph (g) or (i) of this AD terminates all requirements of paragraph (g)(1) of AD 2010–26–05 for Dassault Aviation Model MYSTERE–FALCON 20–C5, 20–D5, 20–E5, and 20–F5 airplanes, except those on which the Dassault Aviation MYSTERE–FALCON 20 Supplemental Structural Inspection Program has been embodied, only.

**(m) Additional AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (n) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov). Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Dassault Aviation’s EASA Design Organization Approval (DOA). If approved by the DOA,

the approval must include the DOA-authorized signature.

**(n) Additional Information**

For more information about this AD, contact Tom Rodriguez, Aviation Safety Engineer, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3226; email: [tom.rodriguez@faa.gov](mailto:tom.rodriguez@faa.gov).

**(o) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on November 2, 2023.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0058, dated March 16, 2023.

(ii) [Reserved]

(4) The following service information was approved for IBR on April 2, 2020 (85 FR 11280, February 27, 2020).

(i) Chapter 5–40–00, Airworthiness Limitations, of the Dassault Falcon 20 Retrofit 731 Maintenance Manual, Revision 13, dated January 1, 2019.

(ii) [Reserved]

(5) For EASA AD 2023–0058, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); website [easa.europa.eu](http://easa.europa.eu). You may find this EASA AD on the EASA website at [ad.easa.europa.eu](http://ad.easa.europa.eu).

(6) For Dassault service information incorporated by reference in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; website [dassaultfalcon.com](http://dassaultfalcon.com).

(7) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(8) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

Issued on September 22, 2023.

**Victor Wicklund,**

*Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2023–21103 Filed 9–27–23; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2023–1405; Project Identifier MCAI–2023–00381–T; Amendment 39–22550; AD 2023–18–09]

RIN 2120–AA64

**Airworthiness Directives; Dassault Aviation Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2023–04–16, which applied to certain Dassault Aviation Model FALCON 900EX airplanes. AD 2023–04–16 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2023–04–16, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This AD continues to require the actions in AD 2023–04–16, and also requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective November 2, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 2, 2023.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of May 12, 2023 (88 FR 20738, April 7, 2023).

**ADDRESSES:**

*AD Docket:* You may examine the AD docket at [regulations.gov](http://regulations.gov) under Docket No. FAA–2023–1405; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

*Material Incorporated by Reference:*

- For material incorporated by reference in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); website [easa.europa.eu](http://easa.europa.eu). You may find this material on the EASA website [ad.easa.europa.eu](http://ad.easa.europa.eu).

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at [regulations.gov](http://regulations.gov) under Docket No. FAA–2023–1405.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3226; email [tom.rodriguez@faa.gov](mailto:tom.rodriguez@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2023–04–16, Amendment 39–22363 (88 FR 20738, April 7, 2023) (AD 2023–04–16). AD 2023–04–16 applied to certain Dassault Aviation Model FALCON 900EX airplanes. AD 2023–04–16 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2023–04–16 to address reduced structural integrity of the airplane.

The NPRM published in the **Federal Register** on July 12, 2023 (88 FR 44228). The NPRM was prompted by AD 2023–0047, dated March 2, 2023, issued by EASA (EASA AD 2023–0047) (also referred to as the MCAI). The MCAI states that new or more restrictive airworthiness limitations have been developed. You may examine the MCAI in the AD docket at [regulations.gov](http://regulations.gov) under Docket No. FAA–2023–1405.

In the NPRM, the FAA proposed to continue to require the actions in AD 2023–04–16 and would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2023–0047. The FAA is issuing this AD to address the unsafe condition on these products.

**Discussion of Final Airworthiness Directive**

**Comments**

The FAA received no comments on the NPRM or on the determination of the cost to the public.

**Conclusion**

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

**Related Service Information Under 1 CFR Part 51**

The FAA reviewed EASA AD 2023–0047. This service information specifies new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2022–0141, dated July 7, 2022, which the Director of the Federal Register approved for incorporation by reference as of May 12, 2023 (88 FR 20738, April 7, 2023).

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

The FAA estimates that this AD affects 144 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2023–04–16 to be \$7,650 (90 work-hours × \$85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new actions to be \$7,650 (90 work-hours × \$85 per work-hour).

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I,

section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

This AD will not have federalism implications under Executive Order 13132. This AD will not have 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.

For the reasons discussed above, I certify that this AD:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

**The Amendment**

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

- 2. The FAA amends § 39.13 by:
  - a. Removing Airworthiness Directive 2023–04–16, Amendment 39–22363 (88 FR 20738, April 7, 2023); and
  - b. Adding the following new Airworthiness Directive:

**2023–18–09 Dassault Aviation:**

Amendment 39–22550; Docket No. FAA–2023–1405; Project Identifier MCAI–2023–00381–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective November 2, 2023.

**(b) Affected ADs**

(1) This AD replaces AD 2023–04–16, Amendment 39–22363 (88 FR 20738, April 7, 2023) (AD 2023–04–16).

(2) This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (AD 2010–26–05).

**(c) Applicability**

This AD applies to Dassault Aviation Model FALCON 900EX airplanes, serial number (S/N) 97 and S/Ns 120 and higher, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 15, 2022.

**(d) Subject**

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

**(e) Unsafe Condition**

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address among other things, fatigue cracking and damage in principal structural elements. The unsafe condition, if not addressed, could result in reduced structural integrity of the airplane.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Retained Revision of the Existing Maintenance or Inspection Program, With a New Terminating Action**

This paragraph restates the requirements of paragraph (j) of AD 2023–04–16, with a new terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 15, 2021: Except as specified in paragraph (h) of this AD, comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0141, dated July 7, 2022 (EASA AD 2022–0141). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

**(h) Retained Exceptions to EASA AD 2022–0141, With No Changes**

This paragraph restates the exceptions specified in paragraph (k) of AD 2023–04–16, with no changes.

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2022–0141 do not apply to this AD.

(2) Paragraph (3) of EASA AD 2022–0141 specifies revising “the approved AMP” within 12 months after its effective date, but

this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after May 12, 2023 (the effective date of AD 2023–04–16).

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0141 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2022–0141, or within 90 days after May 12, 2023 (the effective date of AD 2023–04–16), whichever occurs later.

(4) The provisions specified in paragraphs (4) and (5) of EASA AD 2022–0141 do not apply to this AD.

(5) The “Remarks” section of EASA AD 2022–0141 does not apply to this AD.

**(i) Retained Restrictions on Alternative Actions and Intervals, With a New Exception**

This paragraph restates the requirements of paragraph (l) of AD 2023–04–16, with a new exception. Except as required by paragraph (j) of this AD, after the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2022–0141.

**(j) New Revision of the Existing Maintenance or Inspection Program**

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2023–0047, dated March 2, 2023 (EASA AD 2023–0047). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

**(k) Exceptions to EASA AD 2023–0047**

(1) This AD does not adopt the requirements specified in paragraphs (1) and (2) of EASA AD 2023–0047.

(2) Paragraph (3) of EASA AD 2023–0047 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2023–0047 is at the applicable “limitations” and “associated thresholds” as incorporated by the requirements of paragraph (3) of EASA AD 2023–0047, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (4) and (5) of EASA AD 2023–0047.

(5) This AD does not adopt the “Remarks” section of EASA AD 2023–0047.

**(l) New Provisions for Alternative Actions and Intervals**

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are

approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2023–0047.

**(m) Terminating Action for AD 2010–26–05**

Accomplishing the actions required by paragraph (g) or (j) of this AD terminates the requirements of paragraph (g)(1) of AD 2010–26–05, for Dassault Aviation Model FALCON 900EX airplanes, S/N 97 and S/Ns 120 and higher only.

**(n) Additional AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to manager of the International Validation Branch, mail it to the attention address identified in paragraph (o) of this AD or email to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov). If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Dassault Aviation’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(o) Additional Information**

For more information about this AD, contact Tom Rodriguez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206–231–3226; email [tom.rodriguez@faa.gov](mailto:tom.rodriguez@faa.gov).

**(p) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on November 2, 2023.

(i) European Union Aviation Safety Agency (EASA) AD 2023–0047, dated March 2, 2023.

(ii) [Reserved]

(4) The following service information was approved for IBR on May 12, 2023 (88 FR 20738, April 7, 2023).

(i) EASA AD 2022–0141, dated July 7, 2022.

(ii) [Reserved]

(5) For EASA ADs 2022–0141 and 2023–0047, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); website [easa.europa.eu](http://easa.europa.eu). You may find these

EASA ADs on the EASA website  
[ad.easa.europa.eu](http://ad.easa.europa.eu).

(6) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(7) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

Issued on September 22, 2023.

**Victor Wicklund,**

*Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2023-21100 Filed 9-27-23; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2023-0765]

RIN 1625-AA00

**Safety Zone; Lake Erie, Buffalo, NY**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 350-foot radius of 42 52'07.96" N 78 53'00.87" W. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by fallout from a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Buffalo.

**DATES:** This rule is effective from 7:30 p.m. through 9:30 p.m. on October 6, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0765 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LT William Kelley, Waterways Management at Sector Buffalo, U.S. Coast Guard; telephone 716-843-9343, email [D09-SMB-SECBuffalo-WWM@uscg.mil](mailto:D09-SMB-SECBuffalo-WWM@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  
§ 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 the event sponsor did not submit notice of the fireworks display to the Coast Guard with sufficient time remaining before the event to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be impracticable and contrary to the public interest by inhibiting the Coast Guard's ability to protect spectators and vessels from the hazards associated with this firework 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, waiting for a 30-day notice period to run would be impracticable and contrary to the public interest.

**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 (COTP) Buffalo has determined that potential hazards associated with a fireworks display starting October 6, 2023 at 7:30 p.m., will be a safety concern for anyone within a 350-foot radius of the launch site at 42 52'07.96" N 78 53'00.87" W. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the fireworks display is active.

**IV. Discussion of the Rule**

This rule establishes a safety zone from 7:30 p.m. until 9:30 p.m. on October 6, 2023. The safety zone will cover all navigable waters within 350

feet of the launch site at 42 52'07.96" N 78 53'00.87" W. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters from potential hazards, while the fireworks display is active. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP Buffalo 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. This rule has not been designated a "significant regulatory action," under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. The safety zone will encompass a 350-foot radius of the fireworks launch site at 42 52'07.96" N 78 53'00.87" W lasting approximately one hour during the evening when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow 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