

6, 2023), and proved to be a very good temporary location for moving the coral nursery stock given that there was double the survivorship of nursery coral relocated to this deeper water site as compared to nursery coral that remained at inshore, shallow sites. It is approximately five miles southeast of the community of Tavernier, on the island of Key Largo.

#### 2. Marathon Special Use Area (Temporary)

The second area is located within Federal open waters of the Atlantic Ocean, approximately four miles offshore from the City of Key Colony Beach/Marathon.

#### 3. Looe Key Special Use Area (Temporary)

The third area is located within Federal open waters of the Atlantic Ocean, approximately 6.5 miles offshore from Summerland Key. Looe Key Special Use Area includes within its boundary one mooring buoy that is used by private individuals or diving and fishing charter operators, which is unavailable for these uses while the temporary special use area restrictions are in place. This is one of 47 total mooring buoys in the vicinity of Looe Key, representing 2% of the total mooring buoy availability in this area (or 0.22% of all mooring buoys available throughout the sanctuary). Currently within this area anchoring is prohibited on living coral other than hardbottom in water depths less than 40 feet when visibility is such that the seabed can be seen (15 CFR 922.163(a)(5)(ii)), and in Looe Key Sanctuary Preservation Area, anchoring is prohibited if a mooring buoy is available or if conducted anywhere other than a designated anchoring area when such areas have been designated and are available (15 CFR 922.164(d)(1)(vi)).

#### Penalties

Pursuant to 16 U.S.C. 1437(d)(1) and 15 CFR 922.8(a), any person who violates this rule is subject to a civil penalty. The maximum civil monetary penalty authorized under the National Marine Sanctuaries Act (NMSA) has been adjusted for inflation over time and is currently \$216,972 per violation per day. See 15 CFR 6.3(f)(13). Furthermore, NMSA authorizes a proceeding in rem against any vessel used in violation of this regulation. See 16 U.S.C. 1437(d)(3).

#### Classification

##### A. National Marine Sanctuaries Act

This action is issued pursuant to the National Marine Sanctuaries Act, 16

U.S.C. 1431 *et seq.* and implementing regulations at 15 CFR part 922. This action is being taken pursuant to the emergency provision of the Florida Keys National Marine Sanctuary regulations at 15 CFR 922.164(e) and 922.165.

##### B. Administrative Procedure Act

In the interim final rule, 89 FR 53483, the Assistant Administrator of the National Ocean Service, NOAA, found good cause to waive notice and public comment pursuant to 5 U.S.C. 553(b)(3)(B) and make the rule immediately effective under 5 U.S.C. 553(d)(3), as it would be impracticable and contrary to the public interest to delay taking the emergency measure to protect corals that were relocated due to heat stress to deeper, cooler waters. NOAA invited comments for 30 days (until July 29, 2024) following publication of the interim final rule. The interim final rule authorized one 60-day extension of the special use area, which we hereby invoke.

**Authority:** 16 U.S.C. 1431 *et seq.*

##### John Armor,

*Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.*

[FR Doc. 2024-18844 Filed 8-22-24; 8:45 am]

**BILLING CODE 3510-NK-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2024-0225]

RIN 1625-AA00

#### Safety Zones; Aerial Drone Displays, Hudson and East Rivers, New York, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing specific areas of the Hudson and East Rivers where safety zones will be enforced on the navigable waters beneath aerial drone shows. This action is necessary to protect personnel, vessels, and the marine environment from potential hazards created by aerial drone displays. This final rule would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector New York or a designated representative.

**DATES:** This rule is effective September 23, 2024.

**ADDRESSES:** To view documents mentioned in this preamble as being

available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0225 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 about this rule, call or email MST1 Melanie Hughes, Sector New York Waterways Management Division, U.S. Coast Guard; 718-354-4352, [D01-SMB-SecNY-Waterways@uscg.mil](mailto:D01-SMB-SecNY-Waterways@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port New York  
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

From November 2022 until June 2024, U.S. Coast Guard Sector New York received 13 requests for aerial drone displays within the Captain of The Port's (COTP) area of responsibility. Of those 13 requests, 10 have either taken place or were planned to take place in areas above the Hudson and East Rivers. In all cases, the sponsors of the drone displays requested safety zones beneath the drones' flight path. The request for safety zones is driven by Federal Aviation Administration (FAA) regulation that drones cannot safely fly over human beings. It is becoming increasingly more common to hold aerial drone displays over the water to reduce the number of occupants immediately below a drone show. In response, on May 24, 2024, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Aerial Drone Displays, Hudson and East Rivers, New York, NY (89 FR 45803). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this rule. During the comment period that ended June 24, 2024, we received three comments.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP New York has determined the potential hazards associated with drone shows to be a safety concern for anyone directly underneath the flight path of aerial drone displays. The purpose of this rule is to ensure the safety of human life and vessels on the navigable waters of the Hudson and East Rivers

while a drone show is taking place overhead.

#### IV. Discussion of Comments, Changes, and the Rule

As noted above, we received three comments; one was submitted directly to the docket and the other two were emailed to the Coast Guard point of contact referenced in the **FOR FURTHER INFORMATION CONTACT** section and have since been added to the docket, on our NPRM published May 24, 2024. Although we received three comments, there are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

One commenter asked whether a barge would be allowed to remain in place while a safety zone is being enforced. The commenter stated that removing a barge would entail additional costs if it were required to move. The rule allows entry and occupancy in the designated safety zone by contacting the COTP or the COTP's Designated Representative via VHF-FM Marine Channel 16, or by contacting the Coast Guard Sector New York command center at 718-354-4356. Such requests as the commenter presents will be considered on a case-by-case basis with regards to the safety of the event and users of the waterway. Additionally, Zones 1 and 2 occur within areas monitored by the Coast Guard's Vessel Traffic Center, who will ensure adequate notice and predictability in the waters through coordination of vessel movements and dissemination of information.

One commenter inquired about a scenario where the City of New York would need to pass through a closed safety zone in order to inspect and/or repair a location that is deemed an emergency and whether they would be given special permission to do so. This rule allows all vessels, not just those operated by the City of New York, to seek permission to enter the zone if necessary. The COTP can grant access on a case-by-case basis into the regulated area. To seek access into a safety zone, you may contact the Sector New York Command Center at 718-354-4356 or use VHF channel 13 or 16. Additionally, the Coast Guard anticipates any enforcement of a regulated area to be of a short duration (while drones are in flight, typically between 10–20 minutes at a time) and impact a small, designated area of the waterway. In many cases, vessels can safely transit around the safety zone. The areas designated as Zone 1 (Hudson River) and Zone 2 (East River) will not be enforced in their entirety, rather, a smaller portion of the zone will be

enforced to cover all waters beneath the drone's flight path. The Coast Guard anticipates, on average, that these safety zones would only cover the waters within a 200-yard radius of the aerial drone display. However, safety zones could be established up to a radius of 500-yards from the aerial drone display.

One commenter requested to know if Pier 89 and Pier 90, near the Intrepid Museum (Pier 86), on the Hudson River were included in Zone 1 (Hudson River). Zone 1 (Hudson River) covers all waters of the Hudson River extending from lower Manhattan (Staten Island Ferry, Whitehall terminal) north to Pier 99.

This rule establishes designated zones on the Hudson and East Rivers in which a safety zone radius up to 500-yards will be established for aerial drone displays. The establishment of a safety zone within a designated zone requires the coordinates defining the center of the safety zone to be within the boundaries of one of the zones.

#### 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 ability of other waterway users to safely transit around the safety zones in many cases, and the size and duration of the safety zones will impact a small, designated area of the waterway for a relatively short period of time. Moreover, the Coast Guard will notify mariners of the enforcement via marine broadcasts, local notice to mariners, local news media, distribution in leaflet form, or by an on-scene oral notice as appropriate. The rule will also allow vessels to seek permission to enter the zone if necessary.

##### 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 received no comments from the Small Business Administration on this rulemaking. 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 call or email 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.

#### 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, Rev. 1, associated implementing instructions, 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 designating areas on the Hudson and East Rivers where safety zones can be established underneath drone shows. It is categorically excluded from further review under paragraph L60a of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

- 2. Add § 165.166 to read as follows:

#### § 165.166 Safety Zones; Coast Guard Captain of the Port New York Zone Drone Displays.

(a) *Locations.* The following areas are designated zones in which a safety zone with a radius up to 500-yards will be established for drone shows. The establishment of a safety zone within a designated zone requires the coordinates defining the center of the safety zone to be within the boundaries of one of the zones described as follows:

(1) *Hudson River Zone 1:* All waters of the Hudson River to include Morris Canal Basin in the vicinity of lower Manhattan, from surface to bottom, encompassed by a line connecting the following points beginning at 40°42'20.9" N, 74°02'05.7" W; traveling north along the shoreline thence to 40°46'41.1" N, 74°00'30.4" W; thence to 40°46'22.2" N, 73°59'38.3" W; traveling south along the shoreline thence to 40°42'02.0" N, 74°00'51.1" W; and back to the point of origin.

(2) *East River Zone 2:* All waters of the East River in the vicinity of lower Manhattan, from surface to bottom, encompassed by a line connecting the following points beginning at 40°42'01.6" N, 74°00'48.7" W; traveling north along the shoreline thence to 40°46'38.0" N, 73°56'31.6" W; thence to 40°46'33.2" N, 73°56'13.4" W; traveling south along the shoreline thence to 40°44'17.2" N, 73°57'38.7" W; thence to 40°44'11.6" N, 73°57'37.0" W; continuing south along the shoreline thence to 40°41'35.7" N, 74°00'14.3" W; and back to the point of origin. These coordinates are based on Datum WGS 84.

(b) *Definitions.* As used in this section:

*Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York Zone in the enforcement of the safety zone.

*Official Patrol Vessels* means any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned as an on-scene representative approved by the COTP.

*Spectators* means all persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) *Regulations.* (1) When enforced, under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter the designated safety zone, contact the COTP or the COTP's Designated Representative via VHF–FM Marine Channel 16, or by contacting the Coast Guard Sector New York command center at 718–354–4356. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* The COTP will make notification of the exact dates and times in advance of each enforcement period for the locations above in paragraph (a) of this section to the local maritime community through marine broadcasts, local notice to mariners, local news media, distribution in leaflet form, or by an on-scene oral notice and signage.

**Jonathan A. Andrechik,**  
*Captain, U.S. Coast Guard, Captain of the Port, Sector New York.*

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**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2024–0748]

#### Safety and Security Zone; Lake Michigan at Chicago Harbor & Burnham Park Harbor

**AGENCY:** Coast Guard, DHS.