

closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative on VHF Channel 16 (156.8 MHz) to seek permission to do so. If permission is granted, vessel operators must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: June 12, 2007.

**James L. McDonald,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 07-027]

RIN 1625-AA00

### Safety Zone; City of Richmond July 3rd Fireworks Show, San Francisco Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone in the navigable waters of San Francisco Bay for the loading, transport, and launching of fireworks used during the City of Richmond Fireworks Display to be held on July 3, 2007. This safety zone is intended to prohibit vessels and people from entering into or remaining within the regulated areas in order to ensure the safety of participants and spectators.

**DATES:** This rule is effective from 8 a.m. to 10 p.m. on July 3, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of the docket COTP San Francisco Bay 07-027 are available for inspection or copying at Coast Guard Sector San Francisco, 1 Yerba Buena Island, San Francisco, California 94130, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ensign Sheral Richardson United States Coast Guard Sector San Francisco, at (415) 556-2950 extension 136, or the 24-hour Command Center at (415) 399-3547.

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Logistical details surrounding the event were not finalized and presented to the Coast Guard in time to draft and publish an NPRM. As such, the event would occur before the rulemaking process was complete. Because of the dangers posed by the pyrotechnics used in this fireworks display, this safety zone is necessary to provide for the safety of event participants, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

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**. Any delay in the effective date of this rule would expose mariners to the dangers posed by the pyrotechnics used in this fireworks display.

### Background and Purpose

City of Richmond, Library and Community Department Recreation Division will sponsor a fireworks display on July 3, 2007, in the waters of San Francisco Bay on Richmond Inner Harbor near the Point Potrero. The fireworks display is meant for entertainment purposes. This safety zone is issued to establish a temporary restricted area in San Francisco Bay around the fireworks launch barge during loading of the pyrotechnics, during the transit of the barge to the display location, and during the fireworks display. This restricted area around the launch barge is necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics on the fireworks barge. The Coast Guard has granted the event sponsor a marine event permit for the fireworks display.

### Discussion of Rule

The Coast Guard is establishing a temporary safety zone in the navigable waters of San Francisco Bay on Richmond Inner Harbor near Point Potrero. During the loading of the fireworks barge, while the barge is being towed to the display location, and until the start of the fireworks display, the temporary safety zone applies to the navigable waters around and under the fireworks barge within a radius of 100 feet. Fifteen minutes prior to and during the twenty minute fireworks display, the area to which the temporary safety

zone applies will increase in size to encompass the navigable waters around and under the fireworks barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on July 3, 2007, and will take place at Pier 50 in San Francisco. Towing of the barge from Pier 50 to the display location is scheduled to take place between 6 p.m. and 8:30 p.m. on July 3, 2007. During the twenty minute fireworks display, scheduled to commence at approximately 9:15 p.m. on July 3, 2007, the fireworks barge will be located approximately 1,200 feet offshore from Point Potrero in the Richmond Inner Harbor in position 37°54.40' N, 122°21.54' W.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the fireworks barge while the fireworks are loaded at Pier 50, during the transit of the fireworks barge, and until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep spectators and vessels a safe distance away from the fireworks barge to ensure the safety of participants, spectators, and transiting vessels.

### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this regulation prevents traffic from transiting a portion of San Francisco Bay during the event, the effect of this regulation will not be significant due to the small size and limited duration of the regulated area. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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 is not expected to have a significant economic impact on a substantial number of entities, some of which may be small entities. This rule may affect owners and operators of pleasure craft engaged in recreational activities and sightseeing. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the area, (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of San Francisco Bay to engage in these activities, (iii) this rule will encompass only a small portion of the waterway for a limited period of time, and (iv) the maritime public will be advised in advance of this safety zone via public notice to mariners.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions, options for compliance, or assistance in understanding this rule, please contact Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 556–2950 extension 136.

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).

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and

would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

#### 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 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 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.

#### 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.

#### 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.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not

likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” will be available in the docket where indicated under **ADDRESSES**.

#### 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. 1226, 1231; 46 U.S.C. Chapter 701; 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 temporary § 165–T11–205 to read as follows:

**§ 165–T11–205 Safety Zone; City of Richmond July 3rd Fireworks Show, San Francisco Bay, CA.**

(a) *Location.* A safety zone is established for the waters of San Francisco Bay in the Richmond Inner Harbor surrounding a barge used as the launch platform for a fireworks display. During the loading of the fireworks barge, during the transit of the fireworks barge to the display location, and until fifteen minutes prior to the start of the fireworks display, the restricted area encompasses the navigable waters around and under the fireworks barge within a radius of 100 feet. During the fifteen minutes preceding the fireworks display and during the twenty minute fireworks display itself, the safety zone increases in size to encompass the navigable waters around and under the fireworks launch barge within a radius of 1,000 feet. Loading of the pyrotechnics onto the fireworks barge is scheduled to commence at 8 a.m. on July 3, 2007, and will take place at Pier 50 in San Francisco. Towing of the barge from Pier 50 to the display location is scheduled to take place between 6 p.m. and 8:30 p.m. on July 3, 2007. During the twenty minute fireworks display, scheduled to start at approximately 9:15 p.m. on July 3, 2007, the fireworks barge will be located approximately 1,000 feet offshore from Point Potrero in the Richmond Inner Harbor in position 37°54.40' N, 122°21.54' W.

(b) *Effective Period.* This section will be enforced from 8 a.m. to 10 p.m. on July 3, 2007. If the event concludes prior to the scheduled termination time, the Coast Guard will cease enforcement of the safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone by all vessels and persons is prohibited, unless specifically authorized by the Captain of the Port San Francisco, or his designated representative.

(d) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, or the designated on-scene patrol personnel. Patrol personnel can be comprised of commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard

Auxiliary, local, State, and Federal law enforcement vessels. 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. The U.S. Coast Guard may be assisted in the patrol and enforcement of this safety zone by local law enforcement as necessary.

Dated: June 13, 2007.

**W.J. Uberti,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09–07–034]

**RIN 1625–AA00**

#### **Safety Zone; Mercyhurst College “Old Fashion 4th of July” Presque Isle Bay, Erie, PA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Presque Isle Bay and Lake Erie near Erie, Pennsylvania. This zone is intended to restrict vessels from a portion of Presque Isle Bay and Lake Erie during the Mercyhurst College “Old Fashion 4th of July”, fireworks display on July 4, 2007. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

**DATES:** This rule is effective from 10 p.m. (local) to 10:30 p.m. (local) on July 4, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CGD09–07–034 and are available for inspection or copying at U.S. Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203 between 8 a.m. (local) and 3 p.m. (local), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Tracy Wirth, U.S. Coast Guard Sector Buffalo, (716) 843–9573.

#### **SUPPLEMENTARY INFORMATION:**

#### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause

exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event. For the same reasons, the Coast Guard also finds, under 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective fewer than 30 days after publication in the **Federal Register**.

#### **Background and Purpose**

This temporary safety zone is necessary to protect vessels and spectators from the hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Buffalo has determined that fireworks launches proximate to watercraft pose a significant risk to public safety. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

#### **Discussion of Rule**

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Mercyhurst College “Old Fashion 4th of July” fireworks display. The fireworks display will occur between 10 p.m. (local) and 10:30 p.m. (local) on July 4, 2007. The safety zone for the fireworks will encompass all waters of Presque Isle Bay and Lake Erie, Erie, PA within a five hundred foot radius of position 42°08'41" N, 080°06'40" W. [DATUM: NAD 83].

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene