

§ 936.16 [Amended]

3. Section 936.16 is amended by removing and reserving paragraphs (c) and (g).

[FR Doc. 99-32737 Filed 12-16-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD01-99-180]

RIN 2115-AA97

Safety Zone: Ambassador Construction Fireworks, Hudson River, Anchorage Channel

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Hudson River for the Ambassador Construction Fireworks display. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic on a portion of the Hudson River.

DATES: This rule is effective from 7:45 p.m. e.s.t. to 9:15 p.m. e.s.t. on December 17, 1999. There is no rain date for this event.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-99-180) and are available for inspection or copying at Waterways Oversight Branch, Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, room 205, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On October 29, 1999, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Ambassador Construction Fireworks, Hudson River, Anchorage Channel in the **Federal Register** (64 FR 58366). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

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**. Due to the date the Application for Approval of Marine Event was received, there was insufficient time to promulgate a NPRM and a final rule that would be effective at least 30 days after it was published. The Coast Guard published an NPRM with a 30-day comment period, but this did not leave sufficient time to publish the final rule 30 days before it's effective date. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of the Hudson River and Anchorage Channel, Manhattan, New York, and provide for the safety of life on navigable waters. Additionally, this temporary safety zone is only for a one and a half hour long local event and it should have negligible impact on vessel transits due to the fact that vessels can safely transit around the zone and they are not precluded from using any portion of the waterway except the safety zone area itself. The public was notified of this event when the NPRM was published in the Local Notice to Mariners on November 4, 1999.

Background and Purpose

Bay Fireworks submitted an Application for Approval of a Marine Event for a fireworks display on the Hudson River. This regulation establishes a temporary safety zone in all waters of the Hudson River and Anchorage Channel within a 360-yard radius of the fireworks barge in approximate position 40°42'00" N 074°01'17" W (NAD 1983), about 340 yards south of The Battery, Manhattan, New York. The temporary safety zone is in effect from 7:45 p.m. e.s.t. to 9:15 p.m. e.s.t. on December 17, 1999. There is no rain date for this event. After publication of the NPRM the sponsor requested the start time of the event be changed from 8:15 p.m. e.s.t. to 7:45 p.m. e.s.t. The Coast Guard Captain of the Port, New York does not anticipate any negative impact from this and has authorized the time change. The temporary safety zone prevents vessels from transiting a portion of the Hudson River and Anchorage Channel, and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through the western 780 yards of the 1400-yard wide Hudson River, the eastern 300 yards of the 730-yard wide Anchorage Channel, and the East River during the event. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this

event. Public notifications will be made prior to the event via local notice to mariners, and marine information broadcasts. The Coast Guard limited the comment period for this NPRM to 30 days because the temporary safety zone is only for a one and a half hour long local event and it should have negligible impact on vessel transits.

Discussion of Comments and Changes

The Coast Guard received no letters commenting on the proposed rulemaking. One change was made to the proposed rule. After publication of the NPRM the sponsor requested the starting time of the event be changed from 8:15 p.m. e.s.t. to 7:45 p.m. e.s.t. The Coast Guard Captain of the Port, New York does not anticipate any negative impact from this and has authorized the time change. The Coast Guard does not consider this half-hour earlier starting time to be a material change, therefore a supplemental notice of proposed rulemaking was not published.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Although this regulation prevents traffic from transiting a portion of the lower Hudson River and Anchorage Channel during the event, the effect of this regulation will not be significant for several reasons: the minimal time that vessels will be restricted from the area, that vessels are not precluded from getting underway, or mooring at, piers at The Battery, Manhattan, that vessels may safely transit through the Hudson River and Anchorage Channel during the event, and advance notifications which will be made to the local maritime community by the Local Notice to Mariners, and marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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 will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit through the affected portion of the Hudson River and Anchorage Channel during the times this zone is activated.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can safely pass through the western 780 yards of the 1400-yard wide Hudson River, the eastern 300 yards of the 730-yard wide Anchorage Channel, and the East River during the event. Additionally, vessels are not precluded from getting underway, or mooring at, piers at The Battery, Manhattan. Before the effective period, we will issue maritime advisories widely available to users of the Port of New York/New Jersey by the local notice to mariners, and marine information broadcasts.

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

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

The Coast Guard Captain of the Port, New York does not anticipate implications for federalism due to the change of the event starting time from 8:15 p.m. e.s.t. to 7:45 p.m. e.s.t.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate. No comments were received during the comment period

regarding Unfunded Mandates. The Coast Guard Captain of the Port, New York does not anticipate implications on Unfunded Mandates due to the change of the event starting time from 8:15 p.m. e.s.t. to 7:45 p.m. e.s.t.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. No comments were received during the comment period regarding the Taking of Private Property. The Coast Guard Captain of the Port, New York does not anticipate implications for Taking of Private Property due to the change of the event starting time from 8:15 p.m. e.s.t. to 7:45 p.m. e.s.t.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. No comments were received during the comment period regarding Civil Justice Reform. The Coast Guard Captain of the Port, New York does not anticipate implications for Civil Justice Reform due to the change of the event starting time from 8:15 p.m. e.s.t. to 7:45 p.m. e.s.t.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule fits category 34(g) since implementation of this action will not result in any significant cumulative impacts on the human environment, substantial controversy or substantial change to existing environmental conditions, impacts which are more than minimal on properties protected under 4(f) of the DOT Act as superseded by Public Law 97–449, and section 106 of the National Historic Preservation Act, and inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. A "Categorical Exclusion

Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

The Coast Guard received no comments during the comment period regarding Environmental Impacts. The Coast Guard Captain of the Port, New York does not anticipate implications on the environment due to the change of the event starting time from 8:15 p.m. e.s.t. to 7:45 p.m. e.s.t.

List of Subjects

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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–180 to read as follows:

§ 165.T01–180 Safety Zone: Ambassador Construction Fireworks, Hudson River, Anchorage Channel.

(a) *Location.* The following area is a safety zone: All waters of the Hudson River and Anchorage Channel within a 360-yard radius of the fireworks barge in approximate position 40°42'00" N 074°01'17" W (NAD 1983), about 340 yards south of The Battery, Manhattan, New York.

(b) *Effective Period.* This section is effective from 7:45 p.m. e.s.t. to 9:15 p.m. e.s.t. on December 17, 1999. There is no rain date for this event.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard.

Upon being hailed by a U. S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: December 10, 1999.

R.E. Bennis,

Captain, U.S. Coast Guard, Captain of the Port, New York.

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