

# DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

### 33 CFR Part 165

[COTP Charleston 06–110]

RIN 1625–AA00

### Fireworks Safety Zone; Shelter Cove, Hilton Head, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of Shelter Cove for a fireworks display. The temporary safety zone extends 800 feet in all directions from a barge located in Shelter Cove, Hilton Head, South Carolina in approximate position 32°11.009' N 080°43.695' W. This rule prohibits entry, anchoring, mooring or transiting within the safety zone without the permission of the Captain of the Port Charleston or his designated representative. This regulation is necessary to protect life and property on the navigable waters of Shelter Cove due to the hazards associated with the launching of fireworks.

**DATES:** The rule is effective from June 6, 2006 through August 22, 2006. Fireworks displays will be held from 8:30 p.m. to 10 p.m. on each Tuesday between those dates.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP Charleston 06–110] and are available for inspection or copying at Coast Guard Sector Charleston (WWM), 196 Tradd Street, Charleston, South Carolina 29401 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Warrant Officer James J. McHugh, Sector Charleston Office of Waterways Management, at (843) 723–7647.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM, which would incorporate a comment period before a final rule could be issued and delay the effective date, would be contrary to the public interest because immediate action is needed to protect the public and waters of the United States.

For the same reason, 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**.

#### Background and Purpose

During the tourist season, between June and August, the Shelter Cover Marina, on Hilton Head Island S.C., will host Harbour Fest each Tuesday between 6 p.m. and 9:30 p.m., featuring a fireworks display at the end of the evening. These fireworks will be launched from a barge in the Harbor, and this safety zone is necessary to ensure the safety of vessels and persons in this area.

#### Discussion of Rule

This rule creates a temporary safety zone 800 feet around a fireworks barge on Upper Broad Creek, Hilton Head, S.C., in approximate position 32°11.009' N 080°43.695' W. This safety zone will be in effect from 8:30 p.m. on June 6, 2006, through 10 p.m. on August 22, 2006. However, the safety zone will only be enforced from 8:30 p.m. until 10 p.m. each Tuesday from June 6 through August 22, 2006. A Safety patrol vessel will be on scene for the duration of the effective period to notify mariners of the restrictions. Persons and vessels will be prohibited from entering, anchoring, mooring or transiting within the safety zone without the permission of the Captain of the Port Charleston or a designated representative. Any concerned traffic may request permission to pass through the safety zone from the COTP or a designated representative on VHF–FM channel 16 or via phone at (843) 724–7616.

#### 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. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The regulation will only be in effect for a short duration, the impact on routine navigation is expected to be minimal, marine traffic will still be able to safely transit around the temporary safety zone and vessels may be allowed to enter the zone with the permission of the COTP or his designated representative.

#### 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 will not have a significant economic impact on a substantial number of small entities. The owners and operators of vessels navigating in the vicinity of the Upper Cooper River may be impacted by this rule. This impact will not be significant because the regulation will only be in effect for a short duration, the impact on routine navigation is expected to be minimal, marine traffic will still be able to safely transit around the temporary safety zone and vessels may be allowed to enter the zone with the permission of the COTP or his designated representative.

#### Assistance for Small Entities

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 the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking.

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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect 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.ID 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” are 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(g), 6.04–1, 6.04–6, and 160.5; Public

Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T07–110 is added to read as follows:

#### § 165.T07–110 Fireworks Safety Zone; Shelter Cove, Hilton Head, SC.

(a) *Regulated area:* The Coast Guard is establishing a temporary safety zone on the navigable waters of the Upper Broad Creek for a fireworks display. The temporary safety zone covers all waters from surface to bottom and extends 800 feet in all directions from the fireworks launch barges located on the Upper Broad Creek, Hilton Head, SC in approximate position 32°11.009' N 080°43.695' W.

(b) *Definitions.* The following definitions apply to this section:

*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port Charleston (COTP) in the enforcement of the regulated area.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited, except as provided for herein, or unless authorized by the Coast Guard Captain of the Port Charleston, South Carolina or his designated representative. Persons and vessels may request permission to enter the safety zone on VHF–FM channel 16 or via phone at (843) 724–7616.

(d) *Enforcement Period.* This regulated area will be enforced from 8:30 p.m. until 10 p.m. each Tuesday between June 6 and August 22, 2006.

(e) *Dates.* This rule is effective from 8:30 p.m. on June 6 until 10 p.m. on August 22, 2006.

Dated: May 23, 2006.

**John E. Cameron,**

*Captain, U.S. Coast Guard, Captain of the Port Charleston, SC.*

[FR Doc. E6–9867 Filed 6–21–06; 8:45 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R04–OAR–2006–0376–200611a; FRL–8187–1]

#### Approval and Promulgation of Implementation Plans Alabama: Open Burning Revision

**AGENCY:** Environmental Protection Agency (EPA).