

from the fireworks launch site located in position 45°04'03" N, 087°06'08" W (NAD 83).

(b) *Effective period.* This regulation is effective from 9 p.m. to 11 p.m. on July 5, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entering into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his designated on-scene representative.

(3) "On-scene representative" of the Captain of the Port Lake Michigan means any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his behalf and is aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: May 14, 2007.

**Bruce C. Jones,**

*Captain, U.S. Coast Guard, Commander,  
Coast Guard Sector Lake Michigan.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09-07-003]

RIN 1625-AA00

#### Safety Zone, Kenosha Harbor, Kenosha, WI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in Kenosha Harbor at the east end of the south pier. This zone is intended to restrict vessels from portions of Lake Michigan and Kenosha Harbor during a

fireworks display on August 11, 2007. This zone is necessary to protect the public from the hazards associated with fireworks displays.

**DATES:** This rule is effective from 8 p.m. to 10 p.m. on August 11, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CGD09-07-003 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin, 53207 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Warrant Officer Brad Hinken, U.S. Coast Guard Sector Lake Michigan, Prevention Department, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin 53207, (414) 747-7154.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On March 22, 2007, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone, Kenosha Harbor, Kenosha, WI in the **Federal Register** (72 FR 13450). We received no letters commenting on the proposed rule. No public meeting requested, and none was held.

##### Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from 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 Lake Michigan has determined fireworks launches in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, 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 Comments and Changes

We received no public comments on the proposed rule. No changes have been made.

##### 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 Kenosha Days of

Discovery fireworks display. The fireworks display will occur between 8 p.m. and 10 p.m. on August 11, 2007.

The safety zone for the fireworks will encompass all waters of Lake Michigan and Kenosha Harbor within a 300 yard radius of position 42°35'14" N, 087°48'29" W (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 Lake Michigan or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

##### 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. This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

##### 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.

This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of Kenosha Harbor and Lake Michigan between 8 p.m. and 10 p.m. on August 11, 2007. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only two hours

for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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. 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.

#### 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 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 would 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 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these special local regulations and fishing rights protection need not be incompatible. We have also determined that this Proposed 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

#### 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 procedure; and related management system 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, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

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 record keeping 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 § 165.T09–003 to read as follows:

**§ 165.T09–003 Safety Zone, Kenosha Harbor, Kenosha, WI.**

(a) *Location.* The following area is a temporary safety zone: All Waters of Lake Michigan and Kenosha Harbor within a 300-yard radius of position 42°-35'-14" N, 087°-48'29" W (NAD 83).

(b) *Effective period.* This regulation is effective from 8 p.m. to 10 p.m. on August 11, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Lake Michigan means any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his behalf and is aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: May 16, 2007.

**Bruce C. Jones,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

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**BILLING CODE 4910–15–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD05–07–037]

RIN 1625–AA00

**Safety Zone; Fireworks Display, Patuxent River, Calvert County, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone upon certain waters of the Patuxent River during a fireworks display. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a barge, located near Solomons, in Calvert County, Maryland. This action will restrict vessel traffic in a portion of the Patuxent River.

**DATES:** This rule is effective from 7:30 p.m. to 10 p.m. on July 5, 2007.

**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 CGD05–07–037 and are available for inspection or copying at Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226–1791, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald L. Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at (410) 576–2674 or (410) 576–2693.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On April 11, 2007, we published a notice of proposed rulemaking (NPRM) entitled “Safety Zone; Fireworks Display, Patuxent River, Calvert County, MD” in the **Federal Register** (72 FR 18176). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

Each year, thousands of spectators attend outdoor fireworks displays discharged from vessels or floating platforms on or near the navigable waters of the United States. Accidental discharge of fireworks and falling hot embers are a safety concern during such events. The Coast Guard has the

authority to impose appropriate controls on marine events that may pose a threat to persons, vessels and facilities under its jurisdiction. The Coast Guard is establishing a safety zone that will be enforced during a fireworks display held over the Patuxent River, near Solomons, in Calvert County, Maryland. The rule is needed to control movement through a portion of the waterway that is expected to be populated by vessels seeking to view the fireworks display.

**Discussion of Comments and Changes**

The Coast Guard received no written correspondence in response to the NPRM. No public meeting was requested and none was held.

**Discussion of Rule**

On July 4, 2007, the Solomons Island Business Association will sponsor an Independence Day celebration fireworks display launched from two adjoining barges located on the Patuxent River near Solomons, in Calvert County, Maryland. The planned event includes an aerial fireworks display beginning at 9 p.m. Due to the need for vessel control during the fireworks display, vessel traffic will be restricted to provide for the safety of spectators and transiting vessels.

The purpose of this rule is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards due to falling embers or other debris associated with a fireworks display from a barge. This rule establishes a safety zone on the waters of the Patuxent River, within a radius of 400 yards around a fireworks barge, which will be located at position latitude 38° 19' 03.0" N, longitude 076° 26' 07.6" W. The Coast Guard anticipates a large recreational boating spectator fleet during this event. The rule will impact the movement of all vessels operating in a specified area of the Patuxent River. Interference with normal port operations is unlikely; however, if required, will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled event.

**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.