

by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port Buffalo will be 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 Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo 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 Buffalo or his on-scene representative.

Dated: August 18, 2011.

**S.M. Wischmann,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0719]

RIN 1625-AA00

#### **Safety Zone; Suttons Bay Labor Day Fireworks, Suttons Bay, Grand Traverse Bay, MI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Captain of the Port Sault Sainte Marie zone. This zone is intended to restrict vessels from certain portions of water areas within Sector Sault Sainte Marie Captain of the Port zone, as defined by 33 CFR 3.45-45. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

**DATES:** This rule is effective from 8 until 11 p.m. on September 3, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0719 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0719 in the "Keyword" box, and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West

Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail MST3 Kevin Moe, Prevention Department, Coast Guard, Sector Sault Sainte Marie, MI, telephone (906) 253-2429, e-mail [Kevin.D.Moe@uscg.mil](mailto:Kevin.D.Moe@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. Notice of this fireworks display was not received in sufficient time for the Coast Guard to solicit public comments before the start of the event. Thus, waiting for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public from the hazards associated with maritime fireworks displays.

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**. For the same reasons discussed in the preceding paragraph, waiting for a 30-day notice period to run would be impracticable and contrary to the public interest.

##### **Background and Purpose**

On the evening of September 3, 2011, the Suttons Bay Chamber of Commerce will conduct a fireworks display to celebrate Labor Day. The celebration will take place next to Suttons Bay Marina Park in Suttons Bay, MI. The Captain of the Port Sault Sainte Marie has determined that the fireworks event poses various hazards to the public, including explosive dangers associated

with fireworks, and debris falling into the water. To minimize these and other hazards, this rule will establish a temporary safety zone around the fireworks display.

##### **Discussion of Rule**

To mitigate the risks associated with the Suttons Bay Labor Day Fireworks, the Captain of the Port, Sector Sault Sainte Marie will enforce a temporary safety zone in the vicinity of the launch site. This safety zone will encompass all waters of Suttons Bay, in the vicinity of the Municipal Marina, within the arc of a circle with a 500ft radius from the fireworks launch site located on a barge positioned 44°58'39.96" N, 085°38'33.78" W [DATUM: NAD 83].

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative. The Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative may be contacted via VHF channel 16.

##### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### *Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We conclude that this rule is not a "significant" regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit

through the safety zone when permitted by the Captain of the Port.

#### *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: The owners or operators of vessels intending to transit or anchor in a portion of Suttons Bay in the vicinity of the Municipal Marina.

This safety zone will not have significant economic impact on a substantial number of small entities for the following reasons: This rule will only be enforced for a short period of time. Vessels may 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, Sector Sault Sainte Marie, 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 (Pub. L. 104–121), we offer to assist small entities in understanding this 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 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 (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.

#### *Taking of Private Property*

This rule will not cause 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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, 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 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 the establishment of a safety zone, and therefore, paragraph (34)(g) of figure 2–1 applies. A preliminary environmental analysis checklist supporting this preliminary 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. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 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.T09–0719 to read as follows:

**§ 165.T09–0719 Safety Zone; Suttons Bay Labor Day Fireworks, Suttons Bay, Grand Traverse Bay, MI.**

(a) *Location.* The following area is a temporary safety zone: all waters of Lake Michigan within a 500-foot radius from the fireworks launch site, approximately 325 yards northwest of the Municipal Marina, at position 44°58'39.96" N, 085°38'33.78" W: [DATUM: NAD 83].

(b) *Effective and Enforcement period.* This regulation is effective and will be enforced from 8 p.m. until 11 p.m. on September 3, 2011. If the September 3 fireworks are cancelled due to inclement weather, then this section will be effective and enforced September 4 from 8 p.m. until 11 p.m.

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

(1) Designated representative means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port Sault Sainte Marie to monitor these safety zones, permit entry into these safety zones, give legally enforceable orders to persons or vessels within these safety zones, or take other actions authorized by the Captain of the Port.

(2) Public vessel means a vessel owned, chartered, or operated by the United States or by a State or political subdivision thereof.

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

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Sault Sainte Marie or a designated representative. Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3) When the safety zone established by this section is being enforced, all vessels must obtain permission from the Captain of the Port Sault Sainte Marie or his designated representative to enter, move within, or exit that safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or his designated representative. While within the safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

(4) The Captain of the Port, Sector Sault Sainte Marie may suspend at any time the enforcement of the safety zone established under this section.

(5) The Captain of the Port, Sector Sault Sainte Marie, will notify the public of the enforcement and suspension of enforcement of the safety zone established by this section via any means that will provide as much notice as possible to the public. These means might include some or all of those listed in 33 CFR 165.7(a). The primary method of notification, however, will be through Broadcast Notice to Mariners and local Notice to Mariners.

(e) *Exemption.* Public vessels, as defined in paragraph (c) of this section, are exempt from the requirements in this section.

Dated: August 16, 2011.

**J.C. McGuinness,**

*Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.*

[FR Doc. 2011–22357 Filed 8–31–11; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket No. USCG–2011–0546]

**RIN 1625–AA00**

**Safety Zone; Labor Day Fireworks, Ancarrows Landing Park, James River, Richmond, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a 420-foot radius safety zone on the navigable waters of James River in Richmond, VA in support of the Labor Day Fireworks event. This action is necessary to provide for the safety of life on navigable waters during the Labor Day Fireworks show. This action is intended to restrict vessel traffic movement to protect mariners

and spectators from the hazards associated with aerial fireworks displays.

**DATES:** This rule will be effective from 8 p.m. until 9 p.m. on September 5, 2011.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2011–0546 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0546 in the “Keyword” box, and then clicking “Search.” This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail LCDR Christopher A. O’Neal, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone 757–668–5581, e-mail [Christopher.A.Oneal@uscg.mil](mailto:Christopher.A.Oneal@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

On June 29, 2011, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Labor Day Fireworks, Ancarrows Landing Park, James River, Richmond, VA in the **Federal Register** (76 FR 125). We received 00 comments on the proposed rule. No public meeting 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 need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment during the fireworks event; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone’s intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

**Background and Purpose**

On September 5, 2011, the City of Richmond, Virginia will sponsor a fireworks display on the shoreline of the navigable waters of the James River centered on position 37°31'13.1" N/