

Issued at Washington, DC, this 6th day of September 2006.

**Edwin G. Foulke, Jr.,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05-06-092]

RIN 1625-AA00

#### Safety Zone: Fireworks Display, Trent River, New Bern, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes the establishment of a 1000 foot safety zone around a fireworks display for the North Carolina Parks and Recreation Conference occurring on November 12, 2006, on the Trent River, New Bern, NC. This action is intended to restrict vessel traffic on the Trent River. This safety zone is necessary to protect mariners from the hazards associated with fireworks displays.

**DATES:** Comments and related material must reach the Coast Guard on or before October 12, 2006.

**ADDRESSES:** You may mail comments and related material to Commander, Coast Guard Sector North Carolina, 2301 East Fort Macon Road, Atlantic Beach, NC 28512. Sector North Carolina maintains the public docket for this rulemaking. Comments and material received from the public. As well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Federal Building Fifth Coast Guard District between 9 a.m. and 2 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** CWO Christopher Humphrey, Prevention Department, Coast Guard Sector North Carolina, at (252) 247-4525.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for

this rulemaking CGD05-06-092, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may charge this proposed rule in view of them.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander, Sector North Carolina at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### Background and Purpose

On November 12, 2006, the North Carolina Parks and Recreation Conference fireworks display will be held adjacent to the Trent River, New Bern, NC. Spectators will be observing from both the shore and from vessels. Due to the need of protection of mariners and spectators from the hazards associated with the fireworks display, vessel traffic will be temporarily restricted.

##### Discussion of Proposed Rule

The Coast Guard is establishing a safety zone on specified waters of the Trent River. The regulated area will consist of a 1000 foot safety zone around a fireworks display from the southern shore of the City of New Bern, NC. The safety zone will be enforced from 6 p.m. to 8 p.m. on November 12, 2006. General navigation in the safety zone will be restricted during the event. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

##### Regulatory Evaluation

This proposed 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. It is not "significant" under the regulatory policies and procedures of the

Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this regulation restricts access to the regulated area, the effect of this rule will not be significant because: (i) The COTP may authorize access to the safety zone; (ii) the safety zone will be in effect for a limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 proposed rule would 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 that portion of the Trent River from 6 p.m. to 8 p.m. on November 12, 2006. The safety zone will not have a significant impact on a substantial number of small entities, because the zone will only be in place for a few hours and maritime advisories will be issued, so the mariners can adjust their plans accordingly. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

##### 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 this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for

compliance, please contact CWO Christopher Humphrey, Prevention Department, Sector North Carolina, at (252) 247-4525. 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 proposed rule would call 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 proposed 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 proposed 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 proposed rule would 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

The proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, 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. A preliminary "Environmental Analysis Check List" is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make a final decision on whether to categorically exclude this rule from further environmental review.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting & record keeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 subpart C 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. Add Temporary § 165.T05-092, to read as follows:

#### § 165.T05-092 Safety Zone: Trent River, New Bern, North Carolina.

(a) *Location:* The following area is a safety zone: All waters of the Trent River within 1000 feet of the fireworks display at New Bern, NC, approximate position 35-00-15N 077-02-39W in the Captain of the Port, Sector North Carolina zone as defined in 33 CFR 3.25-20.

(b) *Definition:* As used in this section; *designated representative:* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Sector North Carolina to act on his behalf.

(c) *Regulation:* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Sector North Carolina, NC, or designated representative.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall: (i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer

on board a vessel displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Coast Guard Sector North Carolina Prevention Department, Morehead City, North Carolina can be contacted at telephone number (252) 247-4570 or (252) 247-4520.

(4) Coast Guard vessels enforcing the safety zone can be contacted on VHF-FM marine band radio, channel 13 (156.65 MHz) and channel 16 (156.8 MHz).

(d) *Enforcement period:* This regulation will be enforced from 6 p.m. to 8 p.m. on November 12, 2006.

Dated: August 29, 2006.

**William D. Lee,**

*Captain, U.S. Coast Guard, Captain of the Port, Sector North Carolina.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[USCG-2006-25767; CGD09-06-123]

RIN 1625-AA00

#### Safety Zones; U.S. Coast Guard Water Training Areas, Great Lakes

**AGENCY:** Coast Guard, DHS.

**ACTION:** Re-opening of comment period.

**SUMMARY:** In response to public requests, the Coast Guard is re-opening the comment period on its notice of proposed rulemaking (NPRM) to establish permanent safety zones throughout the Great Lakes to conduct live fire gun exercises. These safety zones are necessary to protect the public from the hazards associated with the firing of weapons and to ensure the operational readiness of Coast Guard personnel, cutters and small boats. Re-opening the comment period will provide the public more time to submit comments and recommendations.

**DATES:** Comments and related materials must reach the Coast Guard on or before November 13, 2006.

**ADDRESSES:** To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG-2006-2567), U.S. Department of Transportation, room PL-401, 400 SW., Washington, DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal Holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for the rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL-401, located on the Plaza level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For information on the NPRM provisions contact Commander Gustav Wulfkuhle, Enforcement Branch, Response Division, Ninth Coast Guard District, Cleveland, Ohio at 216-902-6091. For questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-493-0402.

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose

On August 1, 2006, the Coast Guard published a notice of proposed rulemaking (NPRM) (71 FR 43402) to establish permanent safety zones throughout the Great Lakes to conduct live fire gun exercises. The initial comment period for this NPRM ended on August 31, 2006.

In response to public requests, the Coast Guard is re-opening the comment period on this NPRM. Re-opening the comment period will provide the public more time to submit comments and recommendations.

In addition, the Coast Guard has added a copy of the "Preliminary Health Risk Assessment for Proposed U.S. Coast Guard Weapons Training Exercises" (January 2006) to the docket in order to better inform the public that the proposed training will pose no elevated health or ecological risks in the Great Lakes.

##### Request for Comments

The Coast Guard encourages you to submit comments and related materials. If you submit a comment, please include your name and address, identify the NPRM [USCG-2006-2567 (formerly CGD09-06-123)]; published in the

**Federal Register** on August 1, 2006 (71 FR 43402) and indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit one copy of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you submit them by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change the proposed rules in view of the comments.

Dated: September 1, 2006.

**John E. Crowley, Jr.,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

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## ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

### 36 CFR Parts 1193 and 1194

[Docket No. 2006-1]

#### Telecommunications Act Accessibility Guidelines; Electronic and Information Technology Accessibility Standards

**AGENCY:** Architectural and Transportation Barriers Compliance Board.

**ACTION:** Notice of meeting.

**SUMMARY:** The Architectural and Transportation Barriers Compliance Board (Access Board) has established a Telecommunications and Electronic and Information Technology Advisory Committee to assist it in revising and updating accessibility guidelines for telecommunications products and accessibility standards for electronic and information technology. This notice announces the dates, time, and location of the first Committee meeting, which will be open to the public.

**DATES:** The meeting is scheduled for September 27, 2006 (beginning at 1 p.m. and ending at 5 p.m.), September 28, 2006 (beginning at 9 a.m. and ending at 5 p.m.) and September 29, 2006 (beginning at 9 a.m. and ending at 3:30 p.m.). Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notices of future meetings will be published in the **Federal Register**.