

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 12:01 a.m. to 11:59 p.m. local time annually on July 4.

Dated: March 16, 2007.

**Brian D. Kelley,**

*Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CCGD05-07-024]

RIN 1625-AA00

#### **Safety Zone: Celebration 2007, Appomattox River, Hopewell, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a 600 foot radius safety zone in the vicinity of Hopewell, VA centered on position 37°-19'-11" N/ 077°-16'-55" W on May 12, 2007 in support of the Celebration 2007 event. This action is intended to restrict vessel traffic movement on the Appomattox River to protect mariners from the hazards associated with fireworks displays.

**DATES:** This rule is effective from 8:30 p.m. to 9:30 p.m. on May 12, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [CGD05-07-024] and are available for inspection or copying at Coast Guard Sector Hampton Roads, Norfolk Federal Building, 200 Granby St., 7th Floor, Norfolk, VA 23510 between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade TaQuitia Winn, Assistant Chief, Waterways Management Division, Sector Hampton Roads at (757) 668-5580.

#### **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.

Insufficient time existed for publication of an NPRM and a final rule. Delaying this rule would be contrary to the public interest since immediate action is needed to minimize potential danger to the public during the fireworks demonstration.

#### **Background and Purpose**

On May 12, 2007, the city of Hopewell, VA will sponsor a fireworks display on the Appomattox River at position 37°-19'-11" N/077°-16'-55" W. Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, vessel traffic will be temporarily restricted within a 600 foot radius of the fireworks barge.

#### *Discussion of Rule*

The Coast Guard is establishing a 600 foot radius safety zone on specified waters of the Appomattox River around the fireworks barge, centered on position 37°-19'-11" N/077°-16'-55" W in the vicinity of City Point, Hopewell, VA. This safety zone will be established in the interest of public safety during the Celebration 2007 event and will be enforced from 8:30 p.m. to 9:30 p.m. on May 12, 2007. General navigation within the safety zone will be restricted during the specified date and times. 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 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. Although this regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; and (ii) 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 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 would not have a significant economic impact on a substantial number of small entities because the zone will only be in place for a limited duration and maritime advisories will be issued allowing the mariners to adjust their plans accordingly. However, this rule may 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 Appomattox River subject to this rule from 8:30 p.m. to 9:30 p.m. on May 12, 2007.

If you think the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Junior Grade TaQuitia Winn, Assistant Chief, Waterways Management Division, Sector Hampton Roads at (757) 668-5580.

#### *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.

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 action 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 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 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*

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 would not create an environmental risk to health or risk to safety that might 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 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 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. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because it establishes a safety zone. 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 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add temporary § 165.T05–024, to read as follows:

#### **§ 165.T05–024 Safety Zone: Celebration 2007, Appomattox River, Hopewell, VA.**

(a) *Location.* The following area is a safety zone: All waters of the Appomattox River, from bottom to surface, located within 600 feet of position 37°–19′–11″ N/077°–16′–55″ W in the vicinity of City Point, Hopewell, VA.

(b) *Definition.* Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulations.* (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, Hampton Roads or his designated representatives.

(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 shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads and the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia can be contacted at telephone number (757) 668–5555 or (757) 484–8192.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM 13 and 16.

(d) *Effective date:* This regulation is effective from 8:30 p.m. to 9:30 p.m. on May 12, 2007.

Dated: March 21, 2007.

**Patrick B. Trapp,**

*Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.*

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