

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 M16475.1D, which guides 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 temporary rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation because it modifies an existing bridge operation regulation.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. From June 27, 2005 to October 28, 2005, § 117.685 is suspended and a new § 117.T684 is added to read as follows:

§ 117.T684 Tchoutacabouffa River.

The draw of the Cedar Lake Road swing span bridge, Tchoutacabouffa River, mile 8.0, will open on signal with twenty-four hours notice; except that the draw will remain closed to

navigation Monday through Friday with the exception of July 4, 2005. However, from August 1, 2005 through September 23, 2005 it will open on signal with twenty-four hours notice every other weekend beginning with the weekend of August 13, 2005.

Dated: June 3, 2005.

R.F. Duncan,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 05–11673 Filed 6–13–05; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–05–019]

RIN 1625–AA00

Safety Zone; Rochester Harbor Boat Parade, Rochester, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing the navigable waters of Rochester Harbor and the Genesee River. This safety zone is intended to restrict vessel traffic from a portion of Rochester Harbor and the Genesee River, Rochester, New York during a boat parade. This safety zone is necessary to ensure the safety of spectators.

DATES: This rule is effective from 9 p.m. on June 24, 2005 through 10 p.m. on June 24, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of the docket (CGD09–05–019), and are available for inspection or copying at U.S. Coast Guard Marine Safety Office (MSO) Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203 between 7 a.m. and 3 p.m. (local), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Craig A. Wyatt, U.S. Coast Guard Marine Safety Office Buffalo, at (716) 843–9570.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of 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. This safety zone is temporary in nature and limited time existed for an NPRM. Under 5

U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be impracticable and contrary to public interest since immediate action is needed to minimize potential danger to the public during the boat parade.

Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with boat parades. Based on recent accidents that have occurred in other Captain of the Port zones, the Captain of the Port Buffalo has determined that boat parades in close proximity to other watercraft pose significant risks to public safety and property. The combination of large numbers of inexperienced recreational boaters, congested waterways and alcohol use, could easily result in serious injury or fatalities.

Discussion of Rule

The Coast Guard is establishing a safety zone consisting of all navigable waters of Rochester Harbor and the Genesee River, Rochester, New York. The Coast Guard will notify the public in advance, by way of Ninth Coast Guard District Local Notice to Mariners, marine information broadcasts, and for those who request it from Marine Safety Office Buffalo, by facsimile (fax).

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 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 this rule 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 rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zones, and all of the zones are in areas 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 would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone is only in effect from 9 p.m. until 10 p.m. on the day of the event and vessel traffic can safely pass outside the safety zone during the event. In cases where traffic congestion is greater than expected and/or blocks shipping channels, traffic may be allowed to pass through the safety zone under a Coast Guard or assisting agency escort with the permission of the Captain of the Port Buffalo. Additionally, the Coast Guard has not received any negative reports from small entities affected during these displays in previous years.

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 rule so that they can better evaluate its effects 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 Marine Safety Office Buffalo (see **ADDRESSES**).

Collection of Information

This 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 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 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 M16475.1D, 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. Paragraph (34)(g) is applicable to this event because the intent of this rule is to establish a safety zone.

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 the final decision on whether the rule should be categorically excluded from further environmental review.

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(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. A new temporary § 165.T09–019 is added to read as follows:

§ 165.T09–019 Safety Zone; Rochester Harbor Boat Parade, Rochester, NY.

(a) *Location.* The following area is a temporary safety zone: all waters of Rochester Harbor and the Genesee River encompassed by an area 800-yards around the West Jetty pier in approximate position: 43° 15'40" N, 077° 36'05" W.

These coordinates are based upon NAD 83.

(b) *Regulations.* (1) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Buffalo.

(2) In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Buffalo, or his designated on-scene representative.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

(d) *Effective time and date.* This section is effective from 9 p.m. (local) on June 24, 2005 through 10 p.m. (local) on June 24, 2005.

Dated: May 23, 2005.

P.M. Gugg,

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

[FR Doc. 05–11674 Filed 6–13–05; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD1–05–036]

RIN 1625–AA00

Safety Zone: Boston Fourth of July Fireworks—Charles River, Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Boston Fourth of July Fireworks.

The safety zone is necessary to protect the life and property of the maritime public from the potential hazards posed by a fireworks display. The safety zone will temporarily prohibit entry into or movement within this portion of the Charles River during its effective period.

DATES: This rule is effective from 7 p.m. e.d.t. on July 4, 2005 until 11:30 p.m. e.d.t. on July 4, 2005, with a rain date of July 5, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–05–036 and are available for inspection or copying at Sector Boston, 427 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Paul English, Sector Boston, Waterways Management Division, at (617) 223–5750.

SUPPLEMENTARY INFORMATION:

Regulatory History

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. An NPRM was not published for this regulation because the final details regarding the nature of the zone were not determined with sufficient time to draft and publish an NPRM. Any delay encountered in the regulation's effective date would be contrary to public interest since the safety zone is needed to prevent traffic from transiting a portion of the Charles River, Boston, Massachusetts, during the fireworks display and to provide for the safety of life on navigable waters. 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**. The zone should have minimal negative impact on vessel use of the Charles River because vessels will only be excluded from the area of the safety zone for 4.5 hours and will be able to operate in other areas of the river during this time.

Background and Purpose

Boston's Fourth of July is holding a fireworks display as part of Boston's celebration in honor of Independence Day. This regulation establishes a temporary safety zone on the waters of the Charles River within a four hundred (400) yard radius around the fireworks launch site located midway between the

Longfellow and Massachusetts Avenue Bridges, specifically at 42°21.28' N, 071°05.00' W.

This safety zone is necessary to protect the life and property of the maritime public from the dangers posed by this event. It will protect the public by prohibiting entry into or movement within this portion of the Charles River during the fireworks display.

Discussion of Rule

The safety zone is in effect from 7 p.m. EDT until 11:30 p.m. EDT July 4, 2005 with a rain date of July 5, 2005. Marine traffic may transit safely outside of the safety zone during the event thereby allowing navigation of the entire river except for the portion delineated by this rule.

Due to the size of the river and the size of this safety zone, the Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local media, local notice to mariners and marine information broadcasts.

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under of the regulatory policies and procedures of DHS is unnecessary.

Although this regulation prevents vessel traffic from transiting into a portion of the Charles River during this event, the effect of this regulation will not be significant for several reasons: vessels will only be excluded from the area of the safety zone for 4.5 hours; although vessels will not be able to transit the river in the vicinity of the zone, they will be able to operate in other areas of the river during the effective period; and advance notifications will be made to the local maritime community by marine information broadcasts and Local Notice to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would