

Original amendment submission date	Date of final publication	Citation/description
December 1, 1997	June 24, 1998	VA Code Sections 701.5; 779.22 [deletion]; .25(k) [deletion]; 780.23, .25(a), (a)(2)(a)(3), (b), (c)(3), (f), 35(b); 783.25(k) [deletion]; 784.15, .16(a), (a)(2), (a)(3), (b), (c)(3), (f), .23(c); 800.40(a)(3); 816.46(a)(2), (b)(3), (b)(5), (c)(2), .49(a)(1), (a)(4)(i) & (ii), (5), (6), (9), (11), (c)(2), .74(a) through (g), .81(a), (c)(3) [deletion], .89(d) [deletion], .104, .105; 817.46(a)(2), (b)(3), (b)(5), (c)(2), .49(a)(1), (a)(4)(i) & (ii), (5), (6), (9), (11), (c)(2), .74(a) through (g), .81(a), (c)(3) [deletion], .89(d) [deletion]; 840.11(f)(2) & (g)(4), (h); 843.14(a)(2); 845.17(b) through (b)(2)(ii), .18(a), (b) through (b)(3)(ii), (d)(1) & (2), .19(a) and 846.17(b)(3) [deletion] and (c).

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-98-058]

RIN 2115-AA97

Safety Zone: Burlington Independence Day Fireworks, Burlington Bay, VT

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Burlington Independence Day fireworks program located on Burlington Bay, Lake Champlain, Vermont. The safety zone is in effect from 9 p.m. until 10:30 p.m. on Friday, July 3, 1998, with a rain date of Saturday, July 11, 1998, at the same time and place. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of Burlington Bay on Lake Champlain, Vermont.

DATES: This rule is effective from 9 p.m. until 10:30 p.m. on Friday, July 3, 1998, with a rain date of Saturday, July 11, 1998, at the same time and place.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 205, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) A. Kenneally, Waterways Oversight Branch, Coast Guard Activities New York, at (718) 354-4195.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not

published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date this updated application was received, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this fireworks display.

Background and Purpose

On May 18, 1998, the City of Burlington, VT submitted an Application for Approval of Marine Event to hold a fireworks program on the waters of Burlington Bay on Lake Champlain, Vermont. The sponsor notified the Coast Guard they are using larger fireworks shells than the annual regulation in 33 CFR 165.166 was written for. This regulation increases the radius of the safety zone from 250 yards to 360 yards. This regulation establishes a safety zone in all waters of Burlington Bay within a 360 yard radius of the fireworks barge located in approximate position 44°28'30.5" N 073°13'32" W (NAD 1983), beside the Burlington Bay breakwater. The safety zone is in effect from 9 p.m. until 10:30 p.m. Friday, July 3, 1998, with a rain date of Saturday, July 11, 1998, at the same time and place. The safety zone prevents vessels from transiting this portion of Burlington Bay, Lake Champlain, Vermont and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Public notification will be made prior to the event via the Local Notice to Mariners.

Regulations for a permanent Regulated Navigation Area have been published for this event in 33 CFR 165.166. If the annual regulation is enforced for this event the safety zone area will not be large enough to provide for the safety of life on navigable waters due to the larger fireworks shells being

used. This final rule will close a portion of Burlington Bay for one hour less than the current regulations in 33 CFR 165.166.

Regulatory Evaluation

This final 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. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the following: this is an annual marine event currently published in 33 CFR 165.166, the event's date is the same, and the location is only 75 yards from the location in 33 CFR 165.166, this final rule will close a portion of Burlington Bay for less time than the current regulation will, the limited marine traffic in the area, the minimal time that vessels will be restricted from the zone, and advance notification which will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operate and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612 and has determined that this final rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this final rule and concluded that under Figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01-058 to read as follows:

§ 165.T01-058 Safety Zone: Burlington Independence Day Fireworks, Burlington Bay, Vermont.

(a) *Location.* The following area is a safety zone: all waters of Burlington Bay, Lake Champlain, Vermont, within a 360 yard radius of the fireworks barge in approximate position 44°28'30.5" N 073°13'32" W (NAD 1983), beside the Burlington Bay breakwater.

(b) *Effective period.* This section is effective from 9 p.m. until 10:30 p.m. on Friday, July 3, 1998, with a rain date of Saturday, July 11, 1998, at the same time and place.

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

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and

petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 5, 1998.

L.M. Brooks,

Captain, U.S. Coast Guard, Acting Captain of the Port, New York.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay; 98-010]

RIN 2115-AA98

Safety Zone; San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing a portion of the navigable waters of the Oakland Estuary, CA, surrounding the barge used as a platform to launch fireworks for Jack London Square's 4th of July Fireworks Celebration, from 8 p.m. to 11:30 p.m., PDT. The launch barge will be located approximately 1000 feet south of Jack London Square in the Oakland Estuary.

This temporary safety zone is necessary to provide for the safety of participating technicians, waterborne and shore-side spectators, vessels, and other property during the fireworks display. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or a designated representative thereof. Commercial vessels may request authorization to transit this safety zone by contacting Vessel Traffic Service on Channel 14 VHF-FM.

DATES: This safety zone will be in effect on July 4, 1998 from 8 p.m. to 11:30 p.m., PDT. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice To Mariners.

ADDRESSES: U.S. Coast Guard, Marine Safety Office, San Francisco Bay, Building 14, Coast Guard Island, Alameda, CA 94501-5100.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Lesley F. Dion-Bow, U.S. Coast Guard, Marine Safety

Office, San Francisco Bay; (510) 437-3073.

SUPPLEMENTARY INFORMATION:

Regulatory Information

In accordance with 5 U.S.C. 553, a Notice of Proposed Rule (NPRM) was not published for this temporary regulation and good cause exists for making it effective prior to, or less than 30 days after, **Federal Register** publication. Publication of an NPRM and delay of its effective date would be contrary to the public interest since the precise location of the event necessitating the promulgation of this safety zone, and other logistical details surrounding the event, were not finalized until a date fewer than 30 days prior to the event date. Therefore, the event would be finished before the rulemaking process was complete if an NPRM was published, jeopardizing the safety of the lives and property of event participants and spectators.

Discussion of Regulation

The Port of Oakland/Oakland Portside Associates are sponsoring the 4th of July Fireworks Celebration at Jack London Square on the evening of July 4, 1998. These fireworks will be launched from a barge located approximately 1,000 feet south of Jack London Square in the Oakland Estuary.

The safety zone will be bounded by a 350 yard radius surrounding the launch barge, the center of which will be approximately located at the following position: 37°-47.6' N, 122°-16.4' W. This safety zone is necessary to protect the participating technicians, the spectators, and vessels and other property from the hazards associated with the fireworks display. Entry into, transit through, or anchoring within this zone by all vessels prohibited, unless authorized by the Captain of the Port, or a designated representative thereof. Commercial vessels may request authorization to transit the regulated area by contacting the Vessel Traffic Service on Channel 14 VHF-FM. For purposes of this temporary regulation, "commercial vessels" are defined as all vessels other than those used and registered/documented exclusively for recreational purposes.

Regulatory Evaluation

This temporary regulation 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. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the