

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2013–0326]

RIN 1625–AA00

#### Safety Zone; Discovery World Fireworks, Milwaukee Harbor, Milwaukee, WI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone within Milwaukee Harbor, Milwaukee, Wisconsin. This zone is intended to restrict vessels from a portion of Milwaukee Harbor due to 4 fireworks displays at Discovery World Pier. This safety zone is necessary to protect the surrounding public and vessels from the hazards associated with these fireworks displays.

**DATES:** This rule will be enforced with actual notice from July 10, 2013, until July 15, 2013. This rule is effective in the Code of Federal Regulations from July 15, 2013 until October 5, 2013. This rule will be enforced at the dates and times listed in the “Discussion of Comments, Changes, and the Final Rule” section that follows.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG–2013–0326. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 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, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414–747–7148 or [Joseph.P.McCollum@uscg.mil](mailto:Joseph.P.McCollum@uscg.mil). If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS Department of Homeland Security  
FR Federal Register

NPRM Notice of Proposed Rulemaking  
TFR Temporary Final Rule

#### A. Regulatory History and Information

On May 17, 2013, the Coast Guard published a notice of proposed rulemaking entitled, “Safety Zone; Discovery World Fireworks, Milwaukee Harbor, Milwaukee, Wisconsin” in the **Federal Register** (78 FR 29086). We received 0 comments on the proposed rule. No public meeting was requested, and none was held.

The Coast Guard finds that good cause exists under 5 U.S.C. 553(d)(3), for making this rule effective less than 30 days after publication in the **Federal Register**. Waiting for a 30 day notice period to run would be impracticable and contrary to the public interest because the Coast Guard did not receive the necessary information in time for this regulation to undertake both an NPRM and a 30 day delayed effective date. The Coast Guard chose to seek public comment in the time that remained. Additionally, undergoing a 30 day delayed effective date would inhibit the Coast Guard’s ability to protect spectators and vessels from the hazards associated with a maritime fireworks display, which are discussed further below.

#### B. Basis and Purpose

The legal basis for the rule is the Coast Guard’s authority to establish regulated navigation areas and limited access areas: 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, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

Bartolotta Catering Company has informed the Coast Guard of 4 fireworks displays planned for 2013. These displays are scheduled for July 10; August 3 and 22; and October 5. Each display is expected to involve fireworks no larger than 4” in size and will be fired from the same location on Discovery World Pier. The Captain of the Port, Lake Michigan, has determined that the likelihood of transiting watercraft during the fireworks displays presents a significant risk of serious injuries or fatalities. The safety risks associated with these displays include falling debris, accidental detonations, and the spread of fire among spectator vessels.

#### C. Discussion of Comments, Changes, and the Final Rule

No comments were received and no changes were made. The Captain of the Port, Lake Michigan, has determined that a safety zone is necessary to

mitigate the aforementioned safety risks. Thus, this rule establishes a safety zone that encompasses all waters of Milwaukee Harbor, including Lakeshore inlet and Discovery World Marina, within the arc of a circle with a 300-foot radius from the fireworks launch site located in approximate position 43°02’10.7” N, 087°53’37.5” W (NAD 83).

This safety zone is effective from July 10, 2013, until October 5, 2013. This safety zone will be enforced from 9 p.m. until 11 p.m. on July 10; August 3 and 22; and October 5, 2013.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

#### D. Regulatory Analyses

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

##### 1. 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 Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

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 small and enforced for only two hours on a given day. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

##### 2. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this rule on small entities. 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. 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, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Lake Michigan in Milwaukee Harbor during the times when this rule is enforced.

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 will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor within the vicinity of the Discovery World Marina or Lakeshore inlet during the times that this zone is enforced.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be enforced for a limited time on 4 days. This safety zone has been designed to allow traffic to pass safely around the zone whenever possible and vessels will be allowed to pass through the zone with the permission of the Captain of the Port. 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.

### 3. 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. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

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.

### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### 7. 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.

### 8. 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.

### 9. 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.

### 10. Protection of Children From Environmental Health Risks

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.

### 11. 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.

### 12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 14. 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 determined 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 it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

### 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. 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.T09–0326 to read as follows:

### § 165.T09–0326 Safety Zone; Discovery World Fireworks, Milwaukee Harbor, Milwaukee, Wisconsin.

(a) *Location.* All waters of Milwaukee Harbor, including Lakeshore inlet and Discovery World Marina, within the arc of a circle with a 300-foot radius from the fireworks launch site located in approximate position 43°02′10.7″ N, 087°53′37.5″ W (NAD 83).

(b) *Effective Period.* This safety zone will be effective from July 10, 2013, until October 5, 2013. This safety zone will be enforced from 9 p.m. until 11 p.m. on July 10; August 3 and 22; and October 5, 2013.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Lake Michigan or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port, Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Lake Michigan to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port, Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port, Lake Michigan 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, Lake Michigan, or his on-scene representative.

Dated: July 1, 2013.

**M.W. Sibley,**

*Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.*

[FR Doc. 2013–16807 Filed 7–12–13; 8:45 am]

BILLING CODE 9110–04–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2012–0799; FRL–9833–2]

### Determination of Attainment for the Sacramento Nonattainment Area for the 2006 Fine Particle Standard; California; Determination Regarding Applicability of Clean Air Act Requirements

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to determine that the Sacramento nonattainment area in California has attained the 2006 24-hour fine particle (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS or standard). This determination is based upon complete, quality-assured, and certified ambient air monitoring data showing that this area has monitored attainment of the 2006 24-hour PM<sub>2.5</sub> NAAQS based on the 2010–2012 monitoring period. Based on the above determination, the requirements for this area to submit an attainment demonstration, together with reasonably available control measures, a reasonable further progress (RFP) plan, and contingency measures for failure to meet RFP and attainment deadlines are suspended for so long as the area continues to attain the 2006 24-hour PM<sub>2.5</sub> NAAQS.

**DATES:** *Effective Date:* This rule is effective on August 14, 2013.

**ADDRESSES:** EPA has established docket number EPA–R09–OAR–2012–0799 for this action. Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be publicly available in either location (e.g., Confidential Business Information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in

the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** John Ungvarsky, (415) 972–3963, or by email at [ungvarsky.john@epa.gov](mailto:ungvarsky.john@epa.gov).

### SUPPLEMENTARY INFORMATION:

Throughout this document, wherever “we”, “us” or “our” are used, we mean EPA.

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- II. Public Comments
- III. EPA’s Final Action
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### I. Summary of EPA’s Proposed Action

On October 26, 2012 (77 FR 65346), EPA proposed to determine that the Sacramento nonattainment area in California has attained the 2006 24-hour NAAQS for fine particles (generally referring to particles less than or equal to 2.5 micrometers in diameter, PM<sub>2.5</sub>). The 2006 24-hour PM<sub>2.5</sub> NAAQS is 35 micrograms per cubic meter (µg/m<sup>3</sup>), based on a 3-year average of the 98th percentile of 24-hour concentrations. The Sacramento PM<sub>2.5</sub> nonattainment area includes Sacramento County, the western portions of El Dorado and Placer counties, and the eastern portions of Solano and Yolo counties. Other than the El Dorado County portion of the nonattainment area, the Sacramento PM<sub>2.5</sub> nonattainment area lies within the Sacramento Valley Air Basin.

In our proposed rule, we explained how EPA makes an attainment determination for the 2006 24-hour PM<sub>2.5</sub> NAAQS by reference to complete, quality-assured data gathered at a State and Local Air Monitoring Station(s) (SLAMS) and entered into EPA’s Air Quality System (AQS) database and by reference to 40 CFR 50.13 (“National primary and secondary ambient air quality standards for PM<sub>2.5</sub>”) and appendix N to [40 CFR] part 50 (“Interpretation of the National Ambient Air Quality Standards for PM<sub>2.5</sub>”). EPA proposed the determination of attainment for the Sacramento nonattainment area based upon a review of the monitoring network and the ambient air quality data collected at the monitoring sites during the 2009–2011 period. The monitoring network in the area is operated by the California Air Resources Board (CARB) and three local air pollution control agencies in the area: Sacramento Metropolitan Air Quality Management District, Placer County Air Pollution Control District, and Yolo-Solano Air Quality Management District. Based on these reviews, EPA found that complete, quality-assured and certified data for the