

DEPARTMENT OF HOMELAND SECURITY
Coast Guard
33 CFR Part 165
[Docket No. USCG-2009-0483]
RIN 1625-AA00
Safety Zone; Target Fireworks, Detroit River, Detroit, MI
AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Captain of the Port Detroit Zone on the Detroit River, Detroit, Michigan. This Zone is intended to restrict vessels from portions of the Detroit River during the Target Fireworks. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 7 a.m., June 20, 2009 until 12:15 a.m., June 26, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0483 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0483 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at the following location: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 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, call or e-mail CDR Joseph Snowden, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568-9508, e-mail Joseph.H.Snowden@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:
Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule

without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the permit application was not received in time to publish an NPRM followed by a final rule before the effective date and because immediate action is necessary to protect the safety of spectators and vessels.

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**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event, and immediate action is necessary to prevent possible loss of life and property. The Coast Guard has not received any complaints or negative comments previously with regard to events of this type and duration.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Such hazards include obstructions to the waterway that may cause marine casualties and the explosive danger of fireworks and debris falling into the water that may cause death or serious bodily harm. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading, and launching of the Target Fireworks Display. The fireworks display will occur between 10 p.m. and 10:45 p.m., June 24, 2009. In the event of inclement weather, the fireworks display will occur between 10 p.m. and 10:45 p.m., June 25, 2009.

Three temporary safety zone areas will be in effect at different periods throughout the enforcement of this rule. The first safety zone area will encompass all waters of the Detroit River bounded by the arc of a circle with a 900-foot radius with its center in approximate position 42°19'23" N, 083°04'34" W from 7 a.m. to 9 p.m. on June 20, 2009, from 6 a.m. to 9 p.m. June 21, 2009, from 6 a.m. to 9 p.m. June 22,

2009, from 6 a.m. to 9 p.m. June 23, 2009 and from 6 a.m. to 5 p.m. on June 24, 2009, and in the event of inclement weather, from 6 a.m. to 5 p.m. on June 25, 2009.

The second safety zone area will encompass a portion of the Detroit River bounded on the South by the International Boundary line, on the West by 83°03'30" W, on the North by the City of Detroit shoreline and on the East by 083°01'15" W from 5 p.m. on June 24, 2009 through 12:15 a.m. on June 25, 2009, and in the event of inclement weather, from 5 p.m. on June 25 to 12:15 a.m. on June 26, 2009.

The third safety zone area will restrict vessels 65 feet in length or greater from navigation or anchorage within a portion of the Detroit River bounded on the South by the International Boundary line, on the West by the Ambassador Bridge, on the North by the City of Detroit shoreline, and on the East by a line near the downstream end of Belle Isle starting at the U.S. shoreline at position 42°20'17" N; 083°00'39" W, and extending to the International Boundary line at position 42°19'53" N; 083°00'15" W from 8 p.m. on June 24, 2009 through 12:15 a.m. on June 25, 2009, and in the event of inclement weather, from 8 p.m. on June 25 to 12:15 a.m. on June 26, 2009.

In the event of inclement weather, the date of the fireworks display will be June 25, 2009. All geographic coordinates are North American Datum of 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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).

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zone’s 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 will 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 a portion of the Detroit River near Detroit, MI between 7 a.m. on June 20, 2009 and 12 a.m. on June 25, 2009.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be in effect for a few days for one event, and throughout most of the enforcement period, navigation around the safety zone will be available. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Detroit to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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.

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 will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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 does not create an environmental risk to health or risk to safety that may 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 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 concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human

environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone. Based on our preliminary determination, 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. Because this event establishes a safety zone, paragraph (34)(g) of the Instruction applies. An environmental analysis checklist 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 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, 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 new temporary § 165.T09-0483 as follows:

§ 165.T09-0483 Safety Zone; Target Fireworks; Detroit River; Detroit, MI.

(a) *Location.* The following areas are temporary safety zones:

(1) The first safety zone area will encompass all waters of the Detroit River bounded by the arc of a circle with a 900-foot radius with its center in approximate position 42°19'23" N, 083°04'34" W (NAD 83).

(2) The second safety zone area will encompass a portion of the Detroit River bounded on the South by the International Boundary line, on the West by 83°03'30" W, on the North by the City of Detroit shoreline and on the East by 083°01'15" W (NAD 83).

(3) The third safety zone will encompass a portion of the Detroit River bounded on the South by the International Boundary line, on the West by the Ambassador Bridge, on the North by the City of Detroit shoreline, and on the East by the downstream end of Belle Isle. The Captain of the Port Detroit has determined that vessels

below 65 feet in length may enter this zone.

(b) *Effective Period.*

(1) The first safety zone is effective from 7 a.m. on June 20, 2009 to 5 p.m. on June 25 2009. The first safety zone will be enforced from 7 a.m. to 9 p.m. on June 20, 2009, from 6 a.m. to 9 p.m. June 21, 2009, from 6 a.m. to 9 p.m. June 22, 2009, from 6 a.m. to 9 p.m. June 23, 2009 and from 6 a.m. to 5 p.m. on June 24, 2009. In the event of inclement weather, the first safety zone will also be enforced from 6 a.m. to 5 p.m. on June 25, 2009.

(2) The second safety zone is effective from 5 p.m. on June 24, 2009 through 12:15 a.m. on June 26, 2009. The second safety zone will be enforced from 5 p.m. on June 24, 2009 through 12:15 a.m. on June 25, 2009. In the event of inclement weather, the second safety zone will also be enforced from 5 p.m. on June 25, 2009 to 12:15 a.m. on June 26, 2009.

(3) The third safety zone is effective from 8 p.m. on June 24, 2009 through 12:15 a.m. on June 26, 2009. The third safety zone will be enforced from 8 p.m. on June 24, 2009 through 12:15 a.m. on June 25, 2009. In the event of inclement weather, the third safety zone will also be enforced from 8 p.m. on June 25, 2009 to 12:15 a.m. on June 26, 2009.

(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 Detroit, 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 Detroit or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

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

(5) 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 or his on-scene representative.

Dated: June 8, 2009.

F.M. Midgette,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

Collection of Debts Owed by Reason of Participation in a Benefits Program

CFR Correction

In Title 38 of the Code of Federal Regulations, Parts 0 to 17, revised as of July 1, 2008, on page 91, in § 1.911, remove paragraphs (b)(1) through (b)(4).

[FR Doc. E9-14689 Filed 6-19-09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043-4043-01]

RIN 0648-XP56

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2009 Deepwater Grouper Commercial Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for deepwater grouper (misty grouper, snowy grouper, yellowedge grouper, warsaw grouper, and speckled hind) in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the deepwater grouper quota for the commercial fishery will have been reached by June 27, 2009. This closure is necessary to protect the deepwater grouper resource.

DATES: Closure is effective 12:01 a.m., local time, June 27, 2009, until 12:01 a.m., local time, on January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Catherine Bruger, telephone 727-551-5727, fax 727-824-5308, e-mail Catherine.Bruger@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery