DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0847]

RIN 1625–AA00

Safety Zone; Hornblower Fireworks Display; San Francisco Bay; San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of San Francisco Bay in support of the Hornblower Fireworks Display on October 20, 2018. This safety zone is necessary to protect personnel, vessels, and the marine environment from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or their designated representative.

DATES: This rule is effective from 11 a.m. to 10:10 p.m. on October 20, 2018.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2018–0847. 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Warrant Officer Mickey Price, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7442 or email at D11–PF–MarineEvents@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Acronyms

APA Administrative Procedure Act
COTP U.S. Coast Guard Captain on the Port
DHS Department of Homeland Security
FR Federal Register
NOAA National Oceanic and Atmospheric
Administration
NPRM Notice of proposed rulemaking
PATCOM U.S. Coast Guard Patrol
Commander

II. Background Information and Regulatory History

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. Since the Coast Guard received notice of this event on September 8, 2018, notice and comment procedures would be impracticable in this instance.

For similar reasons as those stated above, 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.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port (COTP) San Francisco has determined that potential hazards associated with the Hornblower Fireworks Display on October 20, 2018, will be a safety concern for anyone within a 100 foot radius of the fireworks barge and anyone within a 420 foot radius of the fireworks firing site. This rule is needed to protect spectators, vessels, and other property from hazards associated with pyrotechnics.

IV. Discussion of the Rule

This rule establishes a temporary safety zone during the loading, staging, and transit of the fireworks barge, until after completion of the fireworks display. During the loading and staging of the pyrotechnics onto the fireworks barge, scheduled to take place from 11 a.m. to 8:30 p.m. on October 20, 2018, at Pier 50 in San Francisco, CA, the safety zone will encompass the navigable waters around and under the fireworks barge within a radius of 100 feet.

The fireworks barge will remain at Pier 50 until the start of its transit to the display location. Towing of the barge from Pier 50 to the display location is scheduled to take place from 8:30 p.m. to 9 p.m. on October 20, 2018, where it will remain until the conclusion of the fireworks display.

At 9 p.m. on October 20, 2018, 30 minutes prior to the commencement of the 10 minute fireworks display, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius of 420 feet in approximate position 37°48′15″ N, 122°23′27″ W (NAD 83) for the Hornblower Fireworks Display. The safety zone shall terminate at 10:10 p.m. on October 20, 2018.

The effect of the temporary safety zone is to restrict navigation in the vicinity of the fireworks loading, staging, transit, and firing site. Except for persons or vessels authorized by the COTP or the COTP’s designated representative, no person or vessel may enter or remain in the restricted areas. These regulations are needed to keep spectators and vessels away from the immediate vicinity of the fireworks firing sites to ensure the safety of participants, spectators, and transiting vessels.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant
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 of 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.

C. 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).

D. Federalism and Indian Tribal Governments

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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Also, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. 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 (adjusted for inflation) or more in any one year. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. 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 (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 a safety zone of limited size and duration. It is categorically excluded from further review under Categorical Exclusion L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. 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.

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:


2. Add § 165.T11–0847 to read as follows:

§ 165.T11–0847 Safety Zone; Hornblower Fireworks Display, San Francisco Bay, San Francisco, CA.

(a) Location. The following area is a safety zone: All navigable waters of the San Francisco Bay within 100 feet of the fireworks barge during loading and staging at Pier 50 in San Francisco, as well as transit and arrival to San Francisco, CA. From 11 a.m. on October...
20, 2018 until approximately 8:30 p.m. on October 20, 2018, the fireworks barge will be loading and staging at Pier 50. The safety zone will expand to all navigable waters around and under the fireworks barge with a radius of 420 feet in approximate position 37°48′15″ N, 122°23′27″ W (NAD 83) 30 minutes prior to the start of the 10 minute fireworks display, scheduled to begin at 9:30 p.m. on October 20, 2018.

(b) Enforcement period. The zone described in paragraph (a) of this section will be enforced from 11 a.m. on October 20, 2018 until approximately 10:10 p.m. on October 20, 2018. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which these zones will be enforced via Notice to Mariners in accordance with 33 CFR 165.7.

(c) Definitions. As used in this section, “designated representative” means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) Regulations. (1) Under the general regulations in 33 CFR part 165, subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or the COTP’s designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zones on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.


Anthony J. Ceralo,
Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. 2018–22825 Filed 10–18–18; 8:45 am]

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0910]

RIN 1625–AA00

Safety Zone; Fox River, Brown County Fireworks, Green Bay, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Fox River in Green Bay, WI, for all navigable waters within a 210-foot radius of the approximate launch position at 44°31′01.016″ N, 088°01′01.016″ W (NAD 83). This action is necessary to protect spectators, mariners, vessels, vessels, and property from potential hazards associated with a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Lake Michigan or a designated representative.

DATES: This rule is effective from 7 p.m. through 7:30 p.m. on October 26, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to http://www.regulations.gov, type USCG–2018–0910 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email the marine event coordinator, MSTC Kaleena Carpino, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI, telephone (414) 747–7148, email Do09-SMB-SECLakeMichigan-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard’s ability to protect the public, vessels, mariners, and property from the hazards associated with the fireworks display on October 26, 2018.

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 for the same reasons discussed in the preceding paragraph. Waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

III. Legal Authority and Need for Rule

The legal basis for this rule is the Coast Guard’s authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

The Coast Guard will enforce a safety zone on October 26, 2018, from 7 p.m. through 7:30 p.m., for a fireworks display on Fox River in Green Bay, WI. The Captain of the Port Lake Michigan has determined that this fireworks display will pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, falling and burning debris, and collisions among spectator vessels.

IV. Discussion of the Rule

With the aforementioned hazards in mind, the Captain of the Port Lake Michigan has determined that this temporary safety zone is necessary to protect persons and vessels during the fireworks display in the waters of Fox River, in Green Bay, WI. This zone is effective and will be enforced from 7 p.m. through 7:30 p.m. on October 26, 2018. The safety zone will encompass all navigable waters of Fox River within a 210-foot radius of the approximate launch position at 44°31′01.016″ N, 088°01′01.016″ W (NAD 83).