Proposed Rules

Federal Register
Vol. 84, No. 81
Friday, April 26, 2019

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0121]

RIN 1625–AA00

Safety Zones; Annual Events in the Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its safety zones regulation for Annual Events in the Captain of the Port Buffalo Zone. This proposed amendment adds eight new permanent safety zones. These amendments and additions are necessary to protect spectators, participants, and vessels from the hazards associated with annual maritime events, including fireworks displays, boat races, and air shows. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 28, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0121 using the Federal eRulemaking Portal at *http://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Sean Dolan, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9322, email *D09-SMB-SECBuffalo-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
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

The legal basis for this proposed rule is the Coast Guard's authority to establish safety zones: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; and Department of Homeland Security Delegation No. 0170.1.

The purpose of this rulemaking is to update the safety zones in § 165.939 to ensure accuracy of times, dates, and dimensions for various triggering and marine events that are expected to be conducted within the Captain of the Port Buffalo Zone throughout the year. The purpose of the rulemaking is also to protect vessels and persons from the specific hazards related to the aforementioned events. These specific hazards include obstructions in the waterway that may cause marine casualties; collisions among vessels maneuvering at a high speed within a channel; the explosive dangers involved in pyrotechnics and hazardous cargo; and flaming/falling debris into the water that may cause injuries.

III. Discussion of Proposed Rule

This proposed rule adds eight new safety zones to Table 165.939 within § 165.939 for annually reoccurring events in the Captain of the Port Buffalo Zone. These eight zones were approved and published in the **Federal Register** as temporary safety zones and were added in order to protect the public from the safety hazards previously described. A list of additions are available in the attachments within this Docket.

The Captain of the Port Buffalo has determined that the safety zones in this proposed rule are necessary to protect the safety of vessels and people during annual marine or triggering events in the Captain of the Port Buffalo zone. Although this proposed rule will be effective year-round, the safety zones in this proposed rule will be enforced only immediately before, during, and after events that pose a hazard to the public and only upon notice by the Captain of the Port Buffalo.

The Captain of the Port Buffalo will notify the public that the zones in this proposal are or will be enforced by all appropriate means to the affected segments of the public, including publication in the **Federal Register**, as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners.

All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port Buffalo or his or her designated representative. Entry into, transiting, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port or his or her designated representative. The Captain of the Port or his or her designated representative may be contacted via VHF Channel 16 or at 716–843–9525.

IV. Regulatory Analyses

We developed this proposed 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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), directs agencies to reduce regulation and control regulatory costs. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zones. The safety zones created by this rule will be relatively small and effective only during the time necessary to protect safety of spectators, participants, vessels, and property for the listed triggering or marine events. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone,

and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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.

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 proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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 $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination 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 proposed rule involves the establishment yearly triggering and marine events on and around Lake Erie. Normally such actions are categorically excluded from further review under paragraph L[60](a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A preliminary Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov*. If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, visit *http://www.regulations.gov/privacyNotice*.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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 proposes to amend 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: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 165.939, amend Table 165.939 by adding the entries (a)(7) and (9), (b)(30) through (33), and (c)(5) and (6) to read as follows:

§ 165.939 Safety Zones; Annual Events in the Captain of the Port Buffalo Zone.

* * * * *

Event	Location [1]	Enforcement date and time [2]
(a) June Safety Zones		
* *	* * * * *	*
(7) Blazing Paddles	Cleveland, OH—All waters of the Cuyahoga River in Cleveland OH, beginning at position 41°29′36″ N, 081°42′13″ W to the turnaround point at position 41°27′53″ N,081°40′38″ W.	On or around the 3rd weekend of June.
(8) Boaters Against Cancer Fireworks.	Kendall, NY—All waters of Lake Ontario contained within a 210 foot radius of the fireworks launch site located at 43°22′02.04″ N, 078°01′48.06″ W in Kendall, NY.	On or around the last weekend of June.
(b) July Safety Zones		
(30) Wine and Walleye Festival Fireworks.	Ashtabula, OH—All waters within a 280 foot radius of the fireworks launch site located at position 41°54′06″ N, 080°47′49″ W, Ashtabula, OH.	On or around the last weekend of July.
(31) City of Erie 4th of July Fireworks.	Erie, PA—All waters of Lake Erie contained within a 280 foot radius of the fireworks launch site located at 42°08′17.13″ N, 080°05′30.17″ W in Erie, PA.	On or around the 4th of July.
(32) Buffalo Italian Fest	Buffalo, NY—All waters of Lake Erie contained within a 420 foot radius of 42°52′04.23″ N, 078°53′00.67″ W in Buffalo, NY.	On or around 2nd or 3rd weekend of July.
(33) Hamburg Beach Blast	Hamburg, NY—All waters of Lake Erie contained within a 280 foot radius of 42°45′59.21″ N, 078°52′41.51″ W in Hamburg, NY.	On or around the last weekend of July.
(c) August Safety Zones		
* *	* * * * *	*
(5) Ski Show Sylvan Beach	Sylvan Beach, NY—All waters where Fish Creek meets Oneida Lake starting at position 43°11′36.6″ N, 75°43′53.8″ W then South to 43°11′33.7″ N, 75°43′51.2″ W then East to 43°11′42.4″ N, 75°43′38.6″ W then North to 43°11′44.5″ N, 75°43′39.7″ W then returning to the point of origin.	On or around the 2nd or 3rd weekend of August.
(6) Great Lakes Offshore Grand Prix.	Dunkirk, NY—All waters of Lake Erie starting at position 42°29′37.7″ N, 079°21′17.7″ W then Northwest to 42°29′45.2″ N, 079°21′28.2″ W then Northeast to 42°30′15.0″ N, 079°21′20.0″ W then Northeast to 42°30′39.0″ N, 079°19′46.0″ W then Southeast to 42°30′09.3″ N, 079°19′03.1″ W.	On or around the 2nd or 3rd weekend of August.
* *	* * * * *	*

[1] All coordinates listed in Table 165.929 reference Datum NAD 1983.

[2] As noted in paragraph (a)(3) of this section, the enforcement dates and times for each of the listed safety zones are subject to change, and will be published in a Notice of Enforcement prior to the event.

Dated: April 22, 2019.

Kenneth E. Blair,

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

[FR Doc. 2019–08416 Filed 4–25–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2019–0183]

RIN 1625–AA00

Safety Zone; Upper Mississippi River MM 486 to 491.1, Riverdale, IA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for the navigable waters of the Upper Mississippi River between mile markers (MM) 486 through MM 491.1 in the vicinity of Riverdale, IA. This action is necessary to provide for the safety of life on these waters during a large scale paddle event. This proposed rulemaking would prohibit persons and vessels from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 28, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0183 using the Federal eRulemaking Portal at *https://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander Christian Barger, Waterways Management Division, Sector Upper Mississippi River, U.S. Coast Guard; telephone 314–269–2560, email *Christian.J.Barger@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code