



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2015-0646]

RIN 1625-AA00

Safety Zones; Marine Events held in the Sector Long Island Sound
Captain of the Port Zone.

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing six safety zones for fireworks displays within the Coast Guard Sector Long Island Sound (LIS) Captain of the Port (COTP) Zone. This temporary final rule is necessary to provide for the safety of life on navigable waters during these events. Entry into, transit through, mooring or anchoring within these safety zones is prohibited unless authorized by COTP Sector LIS.

DATES: This rule is effective without actual notice from 12:01 a.m. on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** until 11 p.m. on August 23, 2015. For the purposes of enforcement, actual notice will be used from the date the rule

was signed, July 29, 2015, until **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2015-0646]. 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 rule, contact Petty Officer Ian Fallon, Prevention Department, Coast Guard Sector Long Island Sound, telephone (203) 468-4565, e-mail Ian.M.Fallon@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
NAD 83	North American Datum 1983

A. Regulatory History and Information

This rulemaking establishes six safety zones for six fireworks displays. Each event and its corresponding regulatory history are discussed below.

Sag Harbor Fire Department Fireworks is a first time marine event with no regulatory history.

Sebonack Golf Club Fireworks is a reoccurring marine event with regulatory history and is cited in 33 CFR 165.151(7.44). This event has been included in this rule due to deviation from the date and location in this cite.

Wood Family Celebration Fireworks is a first time marine event with no regulatory history.

Baker Annual Summer Celebration is a recurring marine event with regulatory history. A safety zone was established for this event on August 16, 2014 via a temporary final rule entitled, "Safety Zones; Marine Events in Captain of the Port Long Island Zone". This rule was published on August 18, 2014 in the Federal Register (79 FR 48685).

Clinton Chamber of Commerce Fireworks is a first time marine event with no regulatory history.

Old Black Point Beach Fireworks is a reoccurring marine event with regulatory history and is cited in 33 CFR 165.151(8.3). This event has been included in this rule due to deviation from the location in this cite.

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 an NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. There is insufficient time to publish an NPRM and solicit comments from the public before these events take place. Thus, waiting for a comment period to run would inhibit the Coast Guard's ability to fulfill its mission to keep the ports and waterways safe.

Under 5 U.S.C. 553(d) (3), and for the same reasons stated in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register.

B. Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5 and Department of Homeland Security Delegation No. 0170.1 which

collectively authorize the Coast Guard to define regulatory safety zones.

Six fireworks displays will take place in the Coast Guard Sector LIS COTP Zone between August 7, 2015 and August 23, 2015. The COTP Sector LIS has determined that the six safety zones established by this temporary final rule are necessary to provide for the safety of life on navigable waterways during those events.

Sag Harbor Fire Department Fireworks will be held at a land launch at Havens Beach, Sag Harbor, NY.

Sebonack Golf Club Fireworks will be held on Peconic Bay, Southampton, NY.

Wood Family Celebration Fireworks will be held on Peconic Bay, Jamesport, NY.

Baker Annual Summer Celebration will be held on Flanders Bay, Southampton, NY.

Clinton Chamber of Commerce Fireworks will be held at a land launch at Clinton Town Beach, Clinton, CT.

Old Black Point Beach Fireworks will be held at a land launch at Old Black Point Beach, Niantic, CT.

C. Discussion of the Final Rule

This rule establishes six safety zones for six fireworks displays. The location of these safety zones are as follows:

Fireworks Displays Safety Zones

1	Sag Harbor Fire Department Fireworks	Location: All waters of the Sag Harbor Bay, Sag Harbor, NY within 140 feet of the land launch site in approximate position 41°00'02"N, 072°17'02"W (NAD 83).
2	Sebonack Golf Club Fireworks	Location: All waters of Peconic Bay, Southampton, NY within 600 feet of the land launch site in approximate position 40°54'49.92"N, 072°27'39.28"W (NAD 83).
3	Wood Family Celebration Fireworks	Location: All waters of Port Little Peconic Bay within 800 feet of the fireworks barge located in approximate position 40°57'59.05"N, 072°23'44.93"W (NAD 83).
4	Baker Annual Summer Celebration	Location: All waters of Flanders Bay near Jamesport, NY within 600 feet of the fireworks barge located in approximate position 40°55'51.84"N, 072°35'07.92"W (NAD 83).
5	Clinton Chamber of Commerce Fireworks	Location: All waters of Clinton Harbor within 420 feet of the land launch site in approximate position 41°15'59"N; 072°31'09"W (NAD 83).
6	Old Black Point Beach Fireworks	Location: All waters of Long Island Sound, Niantic, CT within 560 feet of the land launch site in approximate positions, 41°17'36.6"N, 072°13'06.9"W (NAD 83).

These fireworks displays will launch pyrotechnics from either a landsite near a waterway or from a barge on a waterway. Regulated areas, specifically safety zones, are required for these fireworks displays to protect both spectators and participants from the safety hazards created by the fireworks

displays, including unexpected pyrotechnics detonation and burning debris.

This rule prevents vessels from entering, transiting, mooring, or anchoring within areas specifically designated as a safety zone and restricts vessel movement around the location of the marine event to reduce the safety risks associated with them during the periods of enforcement unless authorized by the COTP or designated representative.

The Coast Guard will notify the public and local mariners of these safety zones through appropriate means, which may include, but are not limited to, publication in the Federal Register, the Local Notice to Mariners, and Broadcast Notice to Mariners.

D. Regulatory Analyses

We developed this 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.

The Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: 1) the enforcement of these safety zones will be relatively short in duration; 2) persons or vessels desiring to enter a safety zone may do so with permission from the COTP Sector LIS or a designated representative; 3) these safety zones are designed in a way to limit impacts on vessel traffic, permitting vessels to navigate in other portions of the waterways not designated as a safety zone; and 4) the Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners to increase public awareness of these safety zones.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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 rule will not

have a significant economic impact on a substantial number of small entities.

This temporary final rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit, anchor, or moor within a safety zone during the periods of enforcement, from August 7, 2015 to August 23, 2015. However, this temporary final rule will not have a significant economic impact on a substantial number of small entities for the same reasons discussed in the Regulatory Planning and Review section.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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, 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 proposed 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 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 temporary rule involves the establishment of safety zones. This rule 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. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, and 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; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5 and Department of Homeland Security Delegation No. 0170.1

2. Add §165.T01-0646 to read as follows:

§165.T01-0646 Safety Zones; Marine Events held in the Sector Long Island Sound Captain of the Port Zone.

(a) Regulations. The general regulations contained in 33 CFR 165.23 apply as well as the following regulations apply to the events listed in the TABLE 1 of §165.T01-0646.

(b) Enforcement period. This rule will be enforced on the dates and times listed for each event in TABLE 1 to §165.T01-0646. If the event is delayed by inclement weather, the safety zone will be enforced on the rain date indicated in TABLE 1 of §165.T01-0646.

(c) Definitions. The following definitions apply to this section:

(1) Designated representative. A "designated representative" is any commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP), Sector Long Island Sound, to act on his or her behalf.

(2) Official patrol vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) Vessels desiring to enter or operate within a safety zone should contact the COTP or the designated representative via VHF channel 16 or by telephone at (203) 468-4401 to obtain permission to do so. Vessels given permission to enter or operate in a safety zone must comply with all directions given to them by the

COTP Sector Long Island Sound or the designated on-scene representative.

(e) Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. While members of the Coast Guard Auxiliary will not serve as the designated representative, they may be present to inform vessel operators of this regulation.

(f) Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

TABLE 1 to §165.T01-0646

Fireworks Events

(1) Sag Harbor Fire Department Fireworks	<ul style="list-style-type: none">• Date: August 7, 2015• Rain Date: August 8, 2015• Time: 9:15 p.m. to 10:45 p.m.• Location: All waters of the Sag Harbor Bay, Sag Harbor, NY within 140 feet of the land launch site in approximate position 41°00'02"N, 072°17'02"W (NAD 83).
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(2) Sebonack Golf Club Fireworks	<ul style="list-style-type: none"> • Date: August 7, 2015 • Rain Date: August 8, 2015 • Time: 8:30 p.m. to 10:30 p.m. • Location: All waters of Peconic Bay, Southampton, NY within 600 feet of the land launch site in approximate position 40°54'49.92"N, 072°27'39.28"W (NAD 83).
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(3) Wood Family Celebration Fireworks	<ul style="list-style-type: none"> • Date: August 15, 2015 • Rain Date: August 16, 2015 • Time: 9:30 p.m. to 10:50 p.m. • Location: All waters of Port Little Peconic Bay within 800 feet of the fireworks barge located in approximate position 40°57'59.05"N, 072°23'44.93"W (NAD 83).
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(4) Baker Annual Summer Celebration	<ul style="list-style-type: none"> • Date: August 15, 2015 • Rain Date: August 16, 2015 • Time: 8:30 p.m. to 10:30 p.m. • Location: All waters of Flanders Bay near Jamesport, NY within 600 feet of the fireworks barge located in approximate position 40°55'51.84"N, 072°35'07.92"W (NAD 83).
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(5) Clinton Chamber of Commerce Fireworks	<ul style="list-style-type: none"> • Date: August 22, 2015 • Rain Date: August 23, 2015 • Time: 8:30 p.m. to 10:30 p.m. • Location: All waters of Clinton Harbor within 420 feet of the land launch site in approximate position 41°15'59"N; 072°31'09"W (NAD 83).

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- (6) Old Black Point Beach Fireworks
- Date: August 22, 2015
 - Rain Date: August 23, 2015
 - Time: 8:00 p.m. to 11:00 p.m.
 - Location: All waters of Long Island Sound, Niantic, CT within 560 feet of the land launch site in approximate positions, 41°17'36.6"N, 072°13'06.9"W (NAD 83).
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Dated: July 29, 2015

E. J. Cubanski, III
Captain, U. S. Coast Guard,
Captain of the Port Sector Long Island Sound

[FR Doc. 2015-20116 Filed: 8/13/2015 08:45 am; Publication Date: 8/14/2015]