



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

Docket No. USCG-2016-0529

RIN 1625-AA00

Safety Zone; 4th of July Firework Celebration; Key West, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the 4th of July Firework Celebration on Saturday, July 4, 2016. The safety zone will encompass a 300 yard radius around the White Street Pier in Key West Harbor. The safety zone is necessary to ensure the safety of spectators and the general public during the event. Persons and vessels, except those participating in the event, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Key West or a designated representative.

DATES: This rule is effective on July 4, 2016. This rule will be enforced from 6 p.m. until 10:30 p.m. on July 4, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0529 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 rule, call or e-mail Chief Petty Officer Jason D. Herbert, Sector Key West Prevention Department, U.S. Coast Guard; telephone (305)292-8772, e-mail jason.d.herbert@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

| | |
|------|---------------------------------|
| DHS | Department of Homeland Security |
| NPRM | Notice of proposed rulemaking |

II. Background Information and Regulatory History

The Coast Guard is issuing this 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 we did not receive notice of this event until May 20, 2016. It is therefore, impracticable to publish a NPRM because this rule must be implemented by July 4, 2016, to ensure the safety of spectators and the general public during this event.

For the same reason discussed 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 legal basis for the rule is the Coast Guard’s authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to provide for the safety of life on the navigable waters of the United States during the 4th of July Firework Celebration.

IV. Discussion of the Rule

On July 4, 2016, the Key West Rotary Club is hosting the 4th of July Firework celebration. The event will consist of approximately 45 Minutes of fireworks in Key West Harbor with an estimated 150 spectator vessels.

This rule establishes a safety zone that will encompass certain navigable waters of the Key West Harbor. The safety zone will be enforced from 6 p.m. until 10:30 p.m. on July 4, 2016.

Persons and vessels may request authorization to enter the special local regulated area by contacting the Captain of the Port Key West by telephone at (305) 433-0954 or (305) 292-8727 or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the special local regulated area is granted by the Captain of the Port Key West or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Key West or a designated representative.

V. 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.

A. 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 economic impact of this rule is not significant for the following reasons: (1) the safety zone will be enforced for four and a half hours; (2) the safety zone will be short in duration with no prolonged waterway impact; (3) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Key West or a designated representative, they may operate in the surrounding areas during the enforcement period; (4) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone during the enforcement period if authorized by the Captain of the Port Key West or a designated representative; and (5) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Marine Safety Information Bulletin, and Broadcast Notice to Mariners.

B. 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 rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within any of the regulated area during the respective enforcement period. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of 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 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.

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.

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 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.ID, 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 the creation of a safety zone that will be enforced from 6 p.m. until 10:30 p.m. on July 4, 2016. It is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this 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.

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 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary § 165.T07-0529 to read as follows:

§ 165.T07-0529 Safety Zone; 4th of July Firework Celebration, Key West, FL.

(a) Regulated Area. The following regulated area is a safety zone. A 300 yard radius from the end of White Street Pier

(b) Definition. The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Key West in the enforcement of the regulated area.

(c) Regulations. (1) Non-participant persons and vessels are prohibited from entering the race area. Non-participant persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port Key West by telephone at (305) 433-0954 or (305) 292-8727 or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Key West or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Key West or a designated representative.

(2) The Coast Guard will provide notice of the safety zone by Marine Safety Information Bulletin, Broadcast Notice to Mariners and on-scene designated representatives.

(d) Enforcement period. This rule will be effective on July 4, 2016, and will be enforced from 6 p.m. until 10:30 p.m. July 4, 2016.

Dated: June 22, 2016

J. A. Janszen,
Captain, U.S. Coast Guard,
Captain of the Port Key West.

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