

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 165****[CGD09-03-203]****RIN 2115-AA97****Safety Zones; Captain of the Port Chicago Zone****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish fifteen permanent safety zones for annual fireworks displays throughout the Captain of the Port Chicago Zone. These safety zones are necessary to control vessel traffic within the immediate vicinity of fireworks launch sites and to ensure the safety of life and property during each event. These safety zones are intended to restrict vessels from the area encompassed by the safety zone for the duration of each fireworks display.

**DATES:** Comments and related material must reach the Coast Guard on or before March 17, 2003.

**ADDRESSES:** You may mail or hand-deliver comments and related material to Commanding Officer, U.S. Coast Guard Marine Safety Office (MSO) Chicago, 215 W. 83rd Street Suite D, Burr Ridge, IL. 60527. MSO Chicago maintains the public docket for this rulemaking. Comments and material received from the public, as well as the documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at MSO Chicago between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** MST3 Kathryn Varela, MSO Chicago, at (630) 986-2175.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related material. Persons submitting comments should include their name and address, identify this rulemaking (CGD09-03-203) and indicate the specific event and section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for photocopying and electronic filing. Persons wanting acknowledgement for receipt of comments should enclose a

stamped, self-addressed envelope or postcard.

The Coast Guard will consider all comments and material received during the comment period. We may change this proposal in view of them.

**Public Meeting**

The Coast Guard does not plan to hold a public hearing. Persons may request a public meeting by writing to Marine Safety Office Chicago at the address listed under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

Each year, various organizations in Illinois and Michigan sponsor fireworks displays at the same locations during the same general time periods. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazards associated with these events, the Captain of the Port Chicago has determined that fireworks launches in close proximity to watercraft pose a risk to public safety and property. The likely combination of large numbers of inexperienced recreational boaters, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement will ensure the safety of persons and property at these events and help minimize the associated risk.

In the past, and for those reasons stated above, the Captain of the Port has annually promulgated separate temporary rulemaking for each fireworks event. This proposed rule would merely consolidate past temporary rulemakings into one rulemaking, would include other events for the purpose of uniformity, and would allow for a more thoughtful, timely rulemaking process. This rulemaking would create a permanent rule listing the safety zones for each fireworks launch platform used for each fireworks display. All geographic coordinates are based upon North American Datum 1983 (NAD 83).

**Discussion of Proposed Rule**

The Coast Guard is proposing to establish a safety zone around all annual fireworks events in the Captain of the Port Chicago area. The proposed size was determined by using the National Fire Protection Association standards.

The Coast Guard believes these proposed rules will not pose any

additional problems for commercial vessels transiting the area. In the unlikely event that shipping is affected by these proposed rules, commercial vessels may request permission from the Captain of the Port Chicago, or his designated representative, to transit through the safety zone. No commercial shipping lanes would be impacted as a result of this rulemaking.

The Coast Guard would announce the exact dates and times for these events by publishing a Notice of Implementation in the **Federal Register** at least ten days prior to the beginning of the event, and by publishing this information in the Ninth Coast Guard District Local Notice to Mariners, marine information broadcasts, and, for those who request it from MSO Chicago, by facsimile (fax).

**Regulatory Evaluation**

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 on Regulatory Planning and Review and therefore 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 this rule under that order. It is non-significant under Department of Transportation regulatory policies and procedures (DOT) (44 FR 11040, February 26, 1979). If comments are received to indicate otherwise, the Captain of the Port may reconsider this determination. The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone.

**Small Entities**

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the Captain of the Port Chicago has determined that this rule will not have a significant 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of an activated