

§ 117.821 Atlantic Intracoastal Waterway, Albermarle Sound to Sunset Beach.

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(4) Figure Eight Swing Bridge, mile 278.1, at Scotts Hill, NC, must open, if signaled, on the hour and half hour.

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Dated: April 14, 1995.

W.J. Ecker,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

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33 CFR Part 165

[CGD01-95-004]

RIN 2115-AA97

Safety Zone: Annual South Street Seaport Memorial Day Fireworks, East River, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone for the annual South Street Seaport Memorial Day Fireworks display located in the East River, New York. The safety zone will be in effect annually on the Sunday before Memorial Day from 8 p.m. until 10 p.m., unless extended or terminated sooner by the Captain of the Port, New York. The safety zone will close all waters of the East River south of the Brooklyn Bridge and north of a line drawn from Pier 9, Manhattan to Pier 3, Brooklyn.

EFFECTIVE DATE: This rule is effective May 26, 1995.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group New York (212) 668-7934.

SUPPLEMENTARY INFORMATION:**Drafting Information**

The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

On March 16, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 14243). Interested persons were requested to submit comments on or before April 17, 1995. No comments were received. A public hearing was not requested and one was not held. The Coast Guard is promulgating this final rule as proposed.

Background and Purpose

For the last several years, South Street Seaport, Inc. has submitted an Application for Approval of Marine Event for a Memorial Day fireworks program in the waters of the East River. This regulation establishes a safety zone in the waters of the East River on the Sunday before Memorial Day from 8 p.m. until 10 p.m., unless extended or terminated sooner by the Captain of the Port, New York. This safety zone precludes all vessels from transiting south of the Brooklyn Bridge and north of a line drawn from Pier 9, Manhattan to Pier 3, Brooklyn. It is needed to protect mariners from the hazards associated with fireworks exploding in the area. The effective period of the safety zone will be announced annually via Safety Marine Information Broadcasts and by locally issued notices.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone closes a portion of the East River to all vessel traffic annually on the Sunday before Memorial Day between 8 p.m. and 10 p.m., unless extended or terminated sooner by the Captain of the Port, New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation will not be significant for several reasons. Due to the limited duration of the event; the late hour of the event; the extensive, advance advisories that will be made; that pleasure craft and some commercial vessels can take an alternate route via the Hudson and Harlem Rivers; and that this event has been held annually for the past several years without incident or complaint, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard

must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of this fireworks program under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process each year.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Regulation

For reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

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(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.