

as it breaks from the parade formation and transits southbound in the Hudson River until safely berthed.

(b) *Effective period.* This section is effective from 9:30 a.m. until 4 p.m. on May 24, 1995, unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.*

(1) The general regulations contained in 33 C.F.R. 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 20, 1995.

J. Rutkovsky,

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

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33 CFR Part 165

[Docket No. CGD01-95-023]

RIN 2115-AA97

Safety Zone: USS AMERICA, Fleet Week '95, Port of New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone on May 24, 1995, and May 31, 1995, for the arrival and departure of the USS AMERICA for Fleet Week '95. This moving safety zone is established 500 yards fore and aft, and 200 yards on each side of the USS AMERICA as it transits the Port of New York and New Jersey between Ambrose Channel Lighted Whistle Buoy "A" and its berth at Pier 88, Manhattan, on the Hudson River.

EFFECTIVE DATE: This rule is effective on May 24, 1995, from 9:15 a.m. until 3 p.m., and on May 31, 1995, from 7:30 a.m. until 1 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

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 14242) concerning this regulatory action. 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 NPRM stated that the safety zone would be in effect while the USS AMERICA transited to and from its berth at an unknown location. This location is now known to be Pier 88, Manhattan, in the Hudson River. The Coast Guard is promulgating this final rule as proposed with the exception of this addition. Good cause exists for making this regulation effective less than 30 days after **Federal Register** publication. Due to the NPRM comment period deemed necessary to give the public adequate notice, there was insufficient time to publish this temporary final rule 30 days prior to the event. The delay that would be encountered to allow for a 30 day publication period would cause the cancellation of this event.

Cancellation of this event is contrary to the public interest.

Background and Purpose

The Intrepid Museum Foundation is sponsoring Fleet Week '95. The USS AMERICA has been designated as the Fleet Week Flagship and will be entering the Port of New York and New Jersey on May 24, 1995, to participate in the various activities associated with this celebration. USS AMERICA intends to depart the Port of New York and New Jersey following the completion of Fleet Week on May 31, 1995. This regulation is effective during the arrival and departure of the USS AMERICA on May 24, 1995, from 9:15 a.m. until 3:00 p.m., and on May 31, 1995, from 7:30 a.m. until 1:00 p.m. unless extended or terminated sooner by the Coast Guard Captain of the Port, New York. The regulation establishes a moving safety zone within 500 yards fore and aft and 200 yards to each side of the USS AMERICA, as it transits the Port of New York and New Jersey between Ambrose Channel Lighted Whistle Buoy "A", at or near 40° 28.8' N latitude, 73° 53.7' W longitude, and its berth at Pier 88, Manhattan, on the Hudson River. No vessels are permitted to enter or move within this moving safety zone unless

authorized by the Captain of the Port, New York.

This regulation is needed to protect the maritime public from possible hazards to navigation associated with a large naval vessel transiting the Port of New York and New Jersey with limited maneuverability in restricted waters, and requiring a clear traffic lane in order to safely navigate to and from its berth.

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. Although there is a regular flow of traffic through this area, there is not likely to be a significant impact on recreational or commercial traffic for several reasons. Due to the moving nature of the safety zone, no single location will be affected for a prolonged period of time. This safety zone prevents vessels from approaching within 500 yards fore and aft and 200 yards on either side of the aircraft carrier USS AMERICA. These distances are less than the typical safe passage distances normally required for large vessels and aircraft carriers. Additionally, recreational traffic can transit on either side of the safety zone or on other major waterways within the port. Alternate routes are also available to commercial and recreational vessel traffic that can safely transit the Harlem and East Rivers, Kill Van Kull, Arthur Kill, and Buttermilk Channel. Similar safety zones have been established for large naval vessels with minimal or no disruption to vessel traffic or other interests in the port. In addition, extensive, advance advisories will be made to the maritime community so that they can adjust their plans accordingly. For all the above reasons, 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