

approved, the bridge owner must take bids for the alteration of the bridge consistent with the approved plans and specifications. Those bids must then be submitted to the Chief, Bridge Administration Division for approval.

(b) After the bridge owner submits the guaranty of cost required by 33 U.S.C. 515, the Chief, Bridge Administration Division authorizes the owner to award the contract.

(c) Partial payments of the government's costs are authorized as the work progresses to the extent that funds have been appropriated.

**§ 116.50 Apportionment of costs under the Truman-Hobbs Act.**

(a) In determining the apportionment of costs, the bridge owner must bear such part of the cost attributable to the direct and special benefits which will accrue to the bridge owner as a result of alteration to the bridge, including expected savings in repairs and maintenance, expected increased carrying capacity, costs attributable to the requirements of highway and railroad traffic, and actual capital costs of the used service life. The United States will bear the balance of the costs, including that part attributable to the necessities of navigation.

(b) "Direct and special benefits" ordinarily will include items desired by the owner but which have no counterpart or are of higher quality than similar items in the bridge prior to alteration. Examples include improved signal and fender systems, pro rata share of dismantling costs, and improvements included, but not required, in the interests of navigation.

(c) During the development of the Apportionment of Costs, the bridge owner will be provided with an opportunity to be heard. Proportionate shares of cost to be borne by the United States and the bridge owner are developed in substantially the following form:

Total cost of project \_\_\_\_\_ \$ \_\_\_\_\_  
 Less salvage \_\_\_\_\_ \$ \_\_\_\_\_  
 Less contribution by third party \_\_\_\_\_ \$ \_\_\_\_\_  
 Cost of alteration to be apportioned \_\_\_\_\_ \$ \_\_\_\_\_  
 Share to be borne by the bridge owner:  
 Direct and Special Benefits:  
 a. Removing old bridge \_\_\_\_\_ \$ \_\_\_\_\_  
 b. Fixed charges \_\_\_\_\_ \$ \_\_\_\_\_  
 c. Betterments \_\_\_\_\_ \$ \_\_\_\_\_  
 Expected savings in repair or maintenance costs:  
 a. Repair \_\_\_\_\_ \$ \_\_\_\_\_

b. Maintenance \_\_\_\_\_ \$ \_\_\_\_\_  
 Costs attributable to requirements of railroad and/or highway traffic \_\_\_\_\_ \$ \_\_\_\_\_  
 Expenditure for increased carrying capacity \_\_\_\_\_ \$ \_\_\_\_\_  
 Expired service life of old bridge \_\_\_\_\_ \$ \_\_\_\_\_  
 Subtotal \_\_\_\_\_ \$ \_\_\_\_\_  
 Share to be borne by the bridge owner \_\_\_\_\_ \$ \_\_\_\_\_  
 Contingencies \_\_\_\_\_ \$ \_\_\_\_\_  
 Total \_\_\_\_\_ \$ \_\_\_\_\_  
 Share to be borne by the United States \_\_\_\_\_ \$ \_\_\_\_\_  
 Contingencies \_\_\_\_\_ \$ \_\_\_\_\_  
 Total \_\_\_\_\_ \$ \_\_\_\_\_

(d) The Order of Apportionment of Costs will include the guaranty of costs.

**§ 116.55 Appeals.**

(a) Except for the decision to issue an Order to Alter, if a complainant disagrees with a recommendation regarding obstruction or eligibility made by a District Commander, or the Chief, Bridge Administration Division, the complainant may appeal that decision to the Chief, Office of Navigation Safety and Waterway Services.

(b) The appeal must be submitted in writing to the Chief, Office of Navigation Safety and Waterway Services, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, within 60 days after the District Commander's or the Chief's, Bridge Administration Division decision. The Chief, Office of Navigation Safety and Waterway Services will make a decision on the appeal within 90 days after receipt of the appeal. The Chief's, Office of Navigation Safety and Waterway Services decision of this appeal shall constitute final agency action.

(c) Any Order of Apportionment made or issued under section 6 of the Truman-Hobbs Act, 33 U.S.C. 516, may be reviewed by the Court of Appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for review is filed within 90 days after the date of issuance of the order. The review is described in section 10 of the Truman-Hobbs Act, 33 U.S.C. 520. The review proceedings do not operate as a stay of any order issued under the Truman-Hobbs Act, other than an order of apportionment, nor relieve any bridge owner of any liability or penalty under other provisions of that act.

Dated: April 20, 1995.

**R.C. Houle,**

*Acting Chief, Office of Navigation Safety and Waterway Services.*

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**33 CFR Part 165**

[CGD01-95-014]

RIN 2115-AA97

**Safety Zone: Parade of Ships, Fleet Week '95, Port of New York and New Jersey**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on May 24, 1995, for the Fleet Week '95 Parade of Ships. A moving safety zone is established 500 yards fore and aft, and 200 yards on each side of the designated column of vessels in this parade as it transits from the Verrazano Narrows Bridge to the George Washington Bridge on the Hudson River. As the vessels make their turns and proceed southbound in the Hudson River, the moving safety zone continues to encompass all waters within a 200 yard radius of each vessel until safely berthed.

**EFFECTIVE DATE:** This rule is effective from 9:30 a.m. until 4 p.m. on Wednesday, May 24, 1995, unless extended or terminated sooner by the Coast Guard 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 14246) 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 proposed rule stated that the vessel column would transit from the Verrazano Narrows Bridge to the waters west of the 79th Street Boat Basin, Manhattan, New York. The Coast Guard has since determined that this would not be practical due to the assigned mooring and anchoring locations of the parade vessels. While the vessel column will transit approximately 8,300 yards north of the 79th Street Boat Basin, the parameters of the moving safety zone

around this column remain the same as published in the NPRM. The proposed rule also stated that the effective period would be from 8:45 a.m. until 3 p.m. Due to a change in the arrival time of the last parade vessel, the USS AMERICA, and the increase in the length of this parade, the effective period was changed.

The effective period of the safety zone will start at 9:30 a.m. instead of 8:45 a.m. and will continue until 4 p.m. instead of 3 p.m. The net result is that the effective period is a total of 15 minutes longer in duration than originally expected. The impact of these changes are minimal. The Captain of the Port, New York is promulgating the temporary final rule as proposed with the exception of these changes. 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

On March 1, 1995, the Intrepid Museum Foundation submitted a request to hold a parade of U.S. Coast Guard and U.S. and foreign naval ships through the Port of New York and New Jersey on May 24, 1995. This section will be effective from 9:30 a.m. until 4 p.m. on May 24, 1995, unless extended or terminated sooner by the Coast Guard Captain of the Port, New York. This section establishes a moving safety zone within all waters 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards to each side of the designated column as it transits north from the Verrazano Narrows Bridge to the George Washington Bridge, in the Hudson River. The vessels will then proceed to their berths. This section also provides for a moving safety zone in all waters within a 200 yard radius around each vessel from the time the vessel breaks off from the parade until it is safely moored. No vessel will be permitted to enter or move within these safety zones unless authorized by the Captain of the Port, New York.

This section is needed to protect the maritime public from possible hazards to navigation associated with a parade of naval vessels transiting the waters of New York Harbor in close proximity. These vessels have limited

maneuverability and require a clear traffic lane in order to safely navigate.

#### 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. Therefore, commercial traffic should not be significantly delayed. Additionally, recreational traffic can transit the river on either side of the safety zone. 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 the previous Fleet Week parades of ships 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 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 given in the 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, July 29, 1994, the promulgation of this regulation 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 the parade under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process.

#### List of Subjects in 33 CFR Part 165

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

2. A temporary § 165.T01-014 is added to read as follows:

#### § 165.T01-014 Safety Zone; Parade of Ships, Fleet Week '95, Port of New York and New Jersey.

(a) *Location.* This moving safety zone includes all waters within 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards on each side of the designated column as it transits north from the Verrazano Narrows Bridge to the George Washington Bridge on the Hudson River. The moving safety zone continues to include 200 yards around each vessel

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