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.

7. 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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.

12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (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 establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

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 165 continues to read as follows:


■ 2. Add § 165.09–00608 to read as follows:

§ 165.09–00608 Safety Zone; City of Ogdensburg Fireworks, St. Lawrence River, Ogdensburg, NY.

(a) Location. The safety zone will encompass all waters of the St. Lawrence River, Ogdensburg, NY within an 840 foot radius of position 44°42′02.79″ N and 75°29′42.73″ W (NAD 83).

(b) Effective and Enforcement Period. This regulation is effective and will be enforced on July 27, 2012 from 9:30 p.m. until 11:00 p.m.

(c) Regulations.

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: July 9, 2012.

S.M. Wischmann,
Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2012–17766 Filed 7–19–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0609]

RIN 1625–AA00

Safety Zone; Canal Fest of the Tonawandas, Erie Canal, Tonawanda, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Erie Canal, Tonawanda, NY. This safety zone is intended to restrict vessels from a portion of the Erie Canal during the Canal Fest of the Tonawandas Fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with a fireworks display.

DATES: This rule will be effective between 9:00 p.m. until 10:30 p.m. on July 22, 2012.
Guard finds that good cause exists for
below.

display, which are discussed further
associated with a maritime fireworks
Coast Guard's ability to protect
effective date of this rule to wait for a
publish an NPRM. Thus, delaying the
for this event were not known to the
final details
with respect to this rule because doing
notice and opportunity to
authorizes an agency to issue a rule
(NPRM) (5 U.S.C. 553(b)). This provision
notice and opportunity to comment
without prior notice and opportunity to
projectiles, and falling or burning
debris.

public safety and property. Such
hazards include premature and
accidental detonations, dangerous
projectiles, and falling or burning
debris.

B. Basis and Purpose

Between 9:30 p.m. and 10:00 p.m. on
July 22, 2012, a fireworks display will
be held on the Erie Canal near
Tonawanda, NY. The Captain of the Port
Buffalo has determined that fireworks
launched proximate to a gathering of
watercraft pose a significant risk to
public safety and property. Such
hazards include premature and
accidental detonations, dangerous
projectiles, and falling or burning
debris.

C. Discussion of Rule

With the aforementioned hazards in
mind, the Captain of the Port Buffalo
determined that this temporary
safety zone is necessary to ensure the
safety of spectators and vessels during the
Canal Fest of the Tonawandas.
Fireworks. This zone will be effective
and enforced from 9:00 p.m. until
10:30 p.m. on July 22, 2012. This zone
will encompass all waters of the Erie
Canal, Tonawanda, NY within a 210
foot radius of position 43°01’17.84”N
and 78°52’40.97”W (NAD 83).

Entry into, transiting, or anchoring
within the safety zone is prohibited
unless authorized by the Captain of the
Port Buffalo or his designated on-scene
representative. The Captain of the Port
or his designated on-scene
representative may be contacted via
VHF Channel 16.

D. Regulatory Analyses

We developed this rule after
considering numerous statutes and
executive orders related to rulemaking.
Below we summarize our analyses
based on 13 of these statutes or
executive orders.

1. 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. It is not “significant” under the
regulatory policies and procedures of the
Department of Homeland Security
(DHS).

We conclude that this rule is not a
significant regulatory action because we
anticipate that it will have minimal
impact on the economy, will not
interfere with other agencies, will not
adversely alter the budget of any grant
or loan recipients, and will not raise any
novel legal or policy issues. The safety
zone created by this rule will be
relatively small and enforced for
relatively short time. Also, the safety
zone is designed to minimize its impact
on navigable waters. Furthermore, the
safety zone has been designed to allow
vessels to transit around it. Thus,
restrictions on vessel movement within
that particular area are expected to be
minimal. Under certain conditions,
moreover, vessels may still transit
through the safety zone when permitted
by the Captain of the Port.

2. 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 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 will affect the following
tentities, some of which might be small
entities: The owners or operators of
vessels intending to transit or anchor in
a portion of the Erie Canal on the

This safety zone will not have a
significant economic impact on a
substantial number of small entities for
the following reasons: This safety zone
would be activated, and thus subject to
enforcement, for only 90 minutes late in
the day. Traffic may be allowed to pass
through the zone with the permission of
the Captain of the Port. The Captain of
the Port can be reached via VHF
channel 16. Before the activation of the
zone, we would issue local Broadcast
Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small
Business Regulatory Enforcement
Fairness Act of 1996 (Pub. L. 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 all 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.

4. 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).

5. Federalism

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 determined that this rule does not have implications for federalism.

6. 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.

7. 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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.

12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (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 establishment of a safety zone and, therefore, it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

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 165 continues to read as follows:


2. Add § 165.T09–0609 to read as follows:

§ 165.T09–0609 Safety Zone; Canal Fest of the Tonawandas, Erie Canal, Tonawanda, NY.

(a) Location. This zone will encompass all waters of the Erie Canal, Tonawanda, NY within a 210 foot radius of position 43°01′17.84″ N and 78°32′40.97″ W (NAD 83).

(b) Effective and Enforcement Period. This regulation is effective and will be enforced on July 22, 2012 from 9:00 p.m. until 10:30 p.m.

(c) Regulations.

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.
DEPARTMENT OF HOMELAND SECURITY
Coast Guard

33 CFR Part 165
[Docket Number USCG–2012–0490]
RIN 1625-AA00

Safety Zone: San Diego Symphony POPS Fireworks; San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of San Diego Bay in support of the San Diego Symphony POPS Fireworks. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective with actual notice from 9:00 p.m. on June 23, 2012, until July 20, 2012. This rule is effective in the Federal Register from July 20, 2012 until 10:00 p.m. on September 2, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2012–0490. To view documents mentioned in this preamble as being available in the docket, go to http://www.regulations.gov, type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer David Varella, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard telephone 619–276–7636, email d11marineeventssd@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

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) because publishing an NPRM would be impracticable. Immediate action is necessary to ensure the safety of vessels, spectators, participants, and others in the vicinity of the marine event on the dates and times this rule will be in effect.

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. Publication of an NPRM would be impracticable, since immediate action is needed to ensure the public’s safety.

B. Basis and Purpose

The San Diego Symphony Orchestra and Copley Symphony Hall are sponsoring the San Diego POPS Fireworks, which will include a fireworks presentation conducted from a barge in San Diego Bay. The barge will be located near the navigational channel in the vicinity of North Embarcadero. The safety zone will include the area within 400 feet of the firing barge. The sponsor will provide a chase boat to patrol the safety zone and inform vessels of the safety zone. This safety zone is necessary to provide for the safety of the crew, spectators, and other vessels and users of the waterway.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that will be enforced from 9 p.m. to 10 p.m. on the following evenings: June 23, 29 and 30, July 1, 6 and 7, 13 and 14, 20 and 21, 27 and 28, August 3 and 4, 10 and 11, 17 and 18, 24 and 25, 31, and September 1 and 2.

The safety zone will include the area within 400 feet of the fireworks barge in approximate position 32°42.13’ N, 117°10.01’ W. The safety zone is necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway. When this safety zone is being enforced, persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. 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. This determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times.

2. 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 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.

(1) This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of San Diego Bay from 9 p.m. to 10 p.m. from June 23 through September 2, 2012.

(2) This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zone impacts a relatively small area, and will only be in effect for one hour at a time, late in the evening when vessel traffic is low.