# **DEPARTMENT OF TRANSPORTATION**

**Coast Guard** 

33 CFR Part 100

[CGD 09-95-016]

RIN 2115-AE46

Special Local Regulation; We Love Erie Days Festival Fireworks Display, Lake Erie, Erie Harbor, PA

**AGENCY:** Coast Guard, DOT. **ACTION:** Temporary rule.

SUMMARY: A special local regulation is being adopted for the We Love Erie Days Festival Fireworks Display. This event will be held on Lake Erie, Erie Harbor, PA on August 20, 1995. This regulation will restrict general navigation on Erie Harbor, PA. Due to the large number of spectator vessels and the falling ash and debris from the fireworks display, this regulation is needed to provide for the safety of life, limb, and property on navigable waters during the event.

**EFFECTIVE DATE:** This regulation is effective from 9 p.m. through 11 p.m. on August 20, 1995, unless extended or terminated sooner by the Coast Guard Group Commander, Buffalo, NY.

FOR FURTHER INFORMATION CONTACT: Marine Science Technician Second Class Jeffrey M. Yunker, Ninth Coast Guard District, Aids to Navigation and Waterways Management Branch, Room 2083, 1240 East Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3990.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold this event was not received by the Commander, Ninth Coast Guard District, until May 22, 1995, and there was not sufficient time remaining to publish a proposed final rule in advance of the event. The Coast Guard has decided to proceed with a temporary rule for this year's event and publish a NPRM, as part of the Great Lakes annual marine events list, prior to next year's event.

# **Drafting Information**

The drafters of this notice are Lieutenant Junior Grade Byron D. Willeford, Project Officer, Ninth Coast Guard District, Aids to Navigation and Waterways Management Branch, and Lieutenant Charles D. Dahill, Project Attorney, Ninth Coast Guard District Legal Office.

#### **Discussion of Regulation**

The We Love Erie Days Festival Fireworks Display will be conducted on Lake Erie, Erie Harbor, PA on August 20, 1995. This regulation will restrict general navigation on Erie Harbor, PA within a 300 foot radius of the Erie Sand and Gravel Pier, the fireworks launching site. This event will have an unusually large concentration of spectator vessels and falling ash and debris, which could pose hazards to navigation in the area. This regulation is necessary to ensure the protection of life, limb, and property on navigable waters during this event. Any vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Commanding Officer, U.S. Coast Guard Station, Erie, PA.)

This regulation is issued pursuant to 33 U.S.C. 1233 as set out in the authority citation for all of Part 100.

# **Federalism Implications**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

## **Environment**

The Coast Guard is conducting an environmental analysis for this event pursuant to section 2.B.2.c of Coast Guard Commandant Instruction M16475.1B, and the Coast Guard Notice of final agency procedures and policy for categorical exclusions found at (59 FR 38654; July 29, 1995).

# **Economic Assessment and Certification**

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 10e of the regulatory policies and procedures of the DOT is unnecessary.

## **Collection of Information**

This regulation will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

### List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirement, Waterways.

### **Temporary Regulation**

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

# PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–T09–016 is added to read as follows:

#### § 100.35—T09–016 We Love Erie Days Festival Fireworks Display, Lake Erie, Erie Harbor, PA.

- (a) Regulated Area: That portion of the Lake Erie, Erie Harbor, PA within a 300 ft. radius of the fireworks launching site, located on the Erie Sand and Gravel Pier, in approximate position 42°08′16″ N, 080°05′40″ W. Datum: NAD 1983.
- (b) Special Local Regulation: This regulation restricts general navigation in the regulated area for the safety of spectators and participants. Any vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander.
  - (c) Patrol Commander:
- (1) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander (Officer in Charge, U.S. Coast Guard Station Erie, PA). The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander."
- (2) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.
- (3) The Patrol Commander may establish vessel size and speed limitations and operating conditions.
- (4) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.
- (5) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life, limb, or property.