

**SUPPLEMENTARY INFORMATION:****Drafting Information**

The drafters of this regulation 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 27, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 15736) concerning this regulatory action. Interested persons were requested to submit comments on or before April 26, 1995. No comments were received. A public hearing was not requested and one was not held. The Coast Guard is promulgating this temporary final rule as proposed. 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 February 23, 1995, the Brick Township Chamber of Commerce submitted an Application for Approval of Marine Event for a fireworks program on Windward Beach in the Metedeconk River. This regulation establishes a temporary safety zone in the waters of the Metedeconk River on June 3, 1995, from 8 p.m. until 10:30 p.m., unless extended or terminated sooner by the Coast Guard Captain of the Port, New York. This safety zone precludes all vessels from transiting a portion of the Metedenock River within a 300 yard radius of the fireworks platform located on a pier in the approximate position 40°03'25"N latitude 074°06'47"W longitude at Windward Beach, Brick, New Jersey. It is needed to protect mariners from the hazards associated with fireworks exploding in the area.

**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 Metedeconk River to all vessel traffic on June 3, 1995, from 8 p.m. until 10:30 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; that mariners can transit to the south of this area; and the extensive, advance advisories that will be made, 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 fireworks 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 up 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 section, 165.T01-026 is added to read as follows:

**§ 165.T01-026 Safety Zone; Brick Founder's Day Fireworks, Metedeconk River, Brick, New Jersey.**

(a) *Location.* all waters of the Metedeconk River within a 300 yard radius of the fireworks platform located on a pier in the approximate position 40°03'25"N latitude 074°06'47"W longitude at Windward Beach, Brick, New Jersey.

(b) *Effective period.* This safety zone is in effect on June 3, 1995, from 8 p.m. until 10:30 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 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 28, 1995.

**T.H. Gilmour,**

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

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## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Public Land Order 7140

[AZ-930-1430-01; AZA 6592]

## Revocation of Public Land Order No. 5298; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

**SUMMARY:** This order revokes in its entirety public land order No. 5298, which withdrew 1,062.70 acres of public lands for the expansion and protection of the Aravaipa Canyon Primitive Area. The lands have been incorporated into the National Wilderness Preservation System to be known as the Aravaipa Canyon Wilderness Area, and the withdrawal is no longer needed. The lands will remain closed to surface entry, mining, and mineral leasing as part of a wilderness area.

**EFFECTIVE DATE:** June 8, 1995.

**FOR FURTHER INFORMATION CONTACT:** John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-650-0509.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 5298, which withdrew the following described lands for the protection and expansion of the Aravaipa Canyon Primitive Area, is hereby revoked in its entirety:

**Gila and Salt River Meridian**

T. 6 S., R. 18 E.,  
 Sec. 15, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 24, S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 25, W $\frac{1}{2}$ E $\frac{1}{2}$ , and W $\frac{1}{2}$ .

T. 6 S., R. 19 E.,  
 Sec. 19, lot 4;  
 Sec. 30, lots 2 to 6, inclusive, SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 and W $\frac{1}{2}$ SE $\frac{1}{4}$ .

The areas described aggregate 1,062.70 acres in Pinal and Graham Counties.

2. The lands will remain closed to all forms of entry due to the lands being within the Aravaipa Canyon Wilderness Area.

Dated: April 21, 1995.

**Bob Armstrong,**

*Assistant Secretary of the Interior.*

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## DEPARTMENT OF TRANSPORTATION

## Maritime Administration

## 46 CFR Part 381

[Docket No. R-153]

RIN 2133-AB17

**Cargo Preference—U.S.-Flag Vessels; Available U.S.-Flag Commercial Vessels**

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

**SUMMARY:** This amendment to the cargo preference regulations of the Maritime Administration (MARAD) would provide that during the 1995 shipping season when the St. Lawrence Seaway is in use, MARAD will consider the legal requirement for the carriage of bulk agricultural commodity preference cargoes on privately-owned "available" U.S.-flag commercial vessels to have been satisfied where the cargo is initially loaded at a Great Lakes port on one or more U.S.-flag or foreign-flag vessels, transferred to a U.S.-flag commercial vessel at a Canadian transshipment point outside the St. Lawrence Seaway, and carried on that U.S.-flag vessel to a foreign destination. This amendment allows Great Lakes ports to compete for agricultural commodity preference cargoes during an entire season trial period.

**EFFECTIVE DATE:** This final rule is effective on May 9, 1995.

**FOR FURTHER INFORMATION CONTACT:** John E. Graykowski, Deputy Maritime Administrator for Inland Waterways and Great Lakes, Maritime Administration, Washington, DC, 20590, Telephone (202) 366-1718.

**SUPPLEMENTARY INFORMATION:** United States law at sections 901(b) (the "Cargo Preference Act") and 901b, Merchant Marine Act, 1936, as amended (the "Act"), 46 App. U.S.C. 1241(b) and 1241f, requires that at least 75 percent of certain agricultural product cargoes "impelled" by Federal programs (preference cargoes), and transported by sea, be carried on privately-owned United States-flag commercial vessels, to the extent that such vessels "are available at fair and reasonable rates." The Secretary of Transportation intends to administer that program so that all ports and port ranges may participate.

**1994 Rulemaking**

On August 8, 1994, MARAD published a final rule on this subject in the **Federal Register** (59 FR 40261). That rule stated that it was intended to allow

U.S. Great Lakes ports to participate with ports in other U.S. port ranges in the carriage of bulk agricultural commodity preference cargoes. It cited as justification for the rule dramatic changes in shipping conditions that have occurred since 1960, including the disappearance of any all-U.S.-flag commercial ocean-going service to foreign countries from U.S. Great Lakes ports. It further stated that the static configuration of the St. Lawrence Seaway system and the evolving greater size of commercial vessels contributed to the disappearance of any all-U.S.-flag service.

No preference cargo has moved on U.S.-flag vessels out of the Great Lakes since 1989, with the exception of one trial shipment in 1993. Under the Food Security Act of 1985, Public Law 99-198, codified at 46 App. U.S.C. 1241f(c)(2), a certain minimum amount of Government-impelled cargo was required to be allocated to Great Lakes ports during calendar years 1986, 1987, 1988, and 1989. That Great Lakes "set-aside" expired in 1989, and was not renewed by Congress. The disappearance of Government-impelled cargo flowing from the Great Lakes coincided with the expiration of the Great Lakes "set aside."

At the time of the opening of the 1994 Great Lakes shipping season on April 5, 1994, the Great Lakes did not have any all-U.S.-flag ocean freight service for carriage of bulk preference cargo. In contrast, the total export nationwide by non-liner vessels of USDA and USAID agricultural assistance program cargoes subject to cargo preference in the 1992-1993 cargo preference year (the latest program year for which figures are available) amounted to 6,297,015 metric tons, of which 4,923,244, or 78.2 percent, was transported on U.S.-flag vessels. (Source: Maritime Administration database.)

MARAD issued the 1994 rule to provide Great Lakes ports with the opportunity to compete for agricultural commodity preference cargoes for only the 1994 Great Lakes shipping season cargoes, and to assess the results.

**Inadequate 1994 Trial Period**

As predicted by numerous commenters on the first notice of proposed rulemaking (NPRM), published on May 11, 1994 (59 FR 24390), the timing of the final rule did not allow for a true trial period since it was actually in effect for less than one-half of the 1994 Great Lakes shipping season. Because of the long lead time required for arranging shipments of bulk agricultural commodity preference cargoes, there was no real opportunity