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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2026-0936]

RIN 1625-AA00

Safety Zone; Aerial Displays, Upper Bay, New York, NY

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Upper New York Bay, in the vicinity of Liberty Island and Governors Island. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with aerial displays. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector New York (COTP), or their designated representative.

DATES: This rule is effective from September 1, 2026, through September 30, 2026.

ADDRESSES: To view available documents, go to https://www.regulations.gov and search for USCG-2026-0936.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact MST1 Angelina Gerber, Sector New York Waterways Management Division, U.S. Coast Guard; telephone 718-801-2932, or email SectorNYWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port, Sector New York
DHS	Department of Homeland Security
FR	*Federal Register*

NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background and Authority

The Coast Guard has received multiple requests from event sponsors to host aerial displays in remembrance of the 25th Anniversary of September 11, 2001. Risks associated with aerial displays, including drone and skydiving demonstrations, include but are not limited to falling equipment and collisions between aerial objects and sailboat masts or commercial vessel pilothouses. Sector New York has a permanent rule to accommodate drone displays in the Hudson River. See 33 CFR 165.166. Unfortunately, the displays which this temporary rule address are outside the boundaries of that safety zone.

The Captain of the Port, Sector New York (COTP) is issuing this rule under the authority in 46 U.S.C. 70034, which is needed to protect persons, vessels, and the marine environment in the navigable waters within the safety zone.

The Coast Guard is issuing this rule without prior notice and comment. As is authorized by 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 it is impracticable. We do not have enough time to solicit and respond to comments.

For the same reason, the Coast Guard finds that under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the *Federal Register*.

III. Discussion of the Rule

This rule allows the COTP to establish a temporary safety zone for aerial displays from September 01, 2026, through September 30, 2026. The safety zone will only be subject to enforcement as needed during times of limited duration for aerial displays. The safety zone will be identified and activated (made subject to enforcement) to accommodate specific aerial displays within the effective dates of the rule and within the

geographic boundaries of the designated zone described below in this paragraph. The COTP will provide notice of the exact dates and times and locations in advance of each enforcement period to the local maritime community through marine broadcasts, local notice to mariners, or by on-scene oral notice. The safety zone may have a radius of up to 500-yards within the designated zone. The coordinates defining the center of the designated zone shall lie within the navigable waters of the Upper New York Bay bounded by the following points: Point One at 40°42'20.9" N, 74°02'05.7" W, thence to Point Two at 40°42'05.8" N, 74°00'58.5" W, thence to Point Three at 40°41'35.7" N, 74°00'14.3" W, thence to Point Four at 40°40'46.5" N, 74°01'09.7" W, thence to Point Five at 40°41'26.2" N, 74°03'17.3" W; thence returning to Point One via the adjoining shoreline. These coordinates are based on the North American Datum 83 (NAD 83).

Vessels and persons will not be allowed to enter the zone during this time, unless authorized by the Captain of the Port. Requests to enter the zone will be considered and reviewed on a case-by-case basis. The COTP may be contacted by telephone at (718) 354-4356 or can be reached by VHF-FM channel 16. Persons and vessels permitted to enter this safety zone must comply with all lawful directions issued by the COTP or the designated representative.

IV. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders.

A. Impact on Small Entities

The regulatory flexibility analysis provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, do not apply to rules that are not subject to notice and comment. Because the Coast Guard has, for good cause, waived the notice and comment requirement that would otherwise apply to this rulemaking, the Regulatory Flexibility

Act's flexibility analysis provisions do not apply here.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), if this rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 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.

B. 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).

C. Federalism and Indian Tribal Governments

We have analyzed this rule under Executive Order 13132, Federalism, and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in that Order.

Also, 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.

D. Unfunded Mandates Reform Act

As required by The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538), the Coast Guard certifies that this rule will not result in an annual expenditure of $100,000,000 or more (adjusted for inflation) by a State, local, or tribal government, in

the aggregate, or by the private sector.

E. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), 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 is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket.

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:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; DHS Delegation No. 00170.1, Revision No. 01.4.

2. Add § 165.T01-0936 to read as follows:

§ 165.T01-0936 Safety Zone; Aerial Displays, Upper Bay, New York, NY.

(a) *Location*. The following area is a designated zone within which a safety zone with a radius of up to 500-yards, will be established for aerial displays. The designation

of a safety zone as being subject to enforcement under this rule requires the coordinates defining the center of the designated zone to be within the boundaries of the area described as follows: All waters of the Upper Bay, in the vicinity of Liberty Island and Governors Island, from surface to bottom, encompassed by a line connecting the following points beginning at 40°42'20.9" N, 74°02'05.7" W, thence to 40°42'05.8" N, 74°00'58.5" W, thence to 40°41'35.7" N, 74°00'14.3" W, thence to 40°40'46.5" N, 74°01'09.7" W, thence to 40°41'26.2" N, 74°03'17.3" W, and along the shoreline back to the beginning point. These coordinates are based on the North American Datum 83 (NAD 83).

(b) *Definitions*. As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York (COTP) in the enforcement of the safety zone.

(c) *Regulations*. (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP’s representative on VHF-FM channel 16 or by telephone at (718) 354-4356. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP’s designated representative.

(d) *Effective dates and enforcement periods*. This rule is effective from September 1, 2026, through September 30, 2026, but it will only be subject to enforcement at specific times and in specific locations dependent on when the aerial displays will be taking place. The COTP will make notification of the exact dates, times, and center point location of the 500-yard radius for each safety zone in advance of each

enforcement period for the locations above in paragraph (a) of this section to the local maritime community through marine broadcasts, local notice to mariners, or by on-scene oral notice.

Doreen McCarthy,
Captain, U.S. Coast Guard,
Captain of the Port Sector New York.
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