

business or small organization as defined by Commission rules adopted for the purpose of compliance with the Regulatory Flexibility Act.<sup>1</sup> An entity not included in these definitions will be considered "small" for purposes of this policy if it meets the total asset amount that applies to issuers as set forth in § 230.157a of this chapter.<sup>2</sup>

(b) This policy does not create a right or remedy for any person. This policy shall not apply to any remedy that may be sought by the Commission other than civil money penalties, whether or not such other remedy may be characterized as penal or remedial.

Dated: March 27, 1997.

By the Commission.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Mobile, AL 97-005]

RIN 2115-AA97

#### Safety Zone Regulations: Pelican Passage Dauphin Island, AL

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

**SUMMARY:** The Coast Guard is establishing a safety zone for Pelican Passage extending ½ mile south and ¾ mile east and west of Dauphin Island Pier, Dauphin Island, Alabama.

<sup>1</sup> Pursuant to the Reg. Flex. Act, 5 U.S.C. § 601(3), the Commission has adopted appropriate definitions of "small business" for purposes of the Reg. Flex. Act. See 17 CFR 270.0-10, 275.0-7, 240.0-10, 230.157, 250.110, and 260.0-7. The Commission recently proposed amendments to certain of these definitions. *Definitions of "Small Business" or "Small Organization" Under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933*, Securities Act Rel. No. 7383, 62 FR 4106 (Jan. 28, 1997). The Commission extended the comment period for the proposed amendments to April 30, 1997, 62 FR 13356 (Mar. 20, 1997). Based on an analysis of the language and legislative history of the Reg. Flex. Act, Congress does not appear to have intended that Act to apply to natural persons (as opposed to individual proprietorships) or to foreign entities. The Commission understands that staff at the Small Business Administration have taken the same position.

<sup>2</sup> At present, this threshold is \$5 million. Thus, non-regulated entities, such as general partnerships, privately held corporations or professional service organizations, with assets of \$5 million or less may qualify for penalty-reduction.

The zone is needed to protect personnel and property associated with the Dauphin Island Spring Festival Acrobatic airshow, Dauphin Island, Alabama. Entry into this zone is prohibited unless authorized by the Captain of the Port.

**DATES:** This regulation is effective from 3 p.m. to 4 p.m. on April 5, 1997.

**FOR FURTHER INFORMATION CONTACT:** LTJG H. Elena McCullough, (334) 441-5286, 150 North Royal Street, Mobile, AL 36652-2924.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 553, a notice of proposed rule making was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent damage to the vessels involved.

#### Background and Purpose

The event requiring this regulation will begin at 3 p.m. on April 5, 1997. The Town of Dauphin Island will be sponsoring an airshow, with low level acrobatics, in the Pelican Passage extending ½ mile south and ¾ mile east and west of Dauphin Island Pier, Dauphin Island, Alabama, bounded by the previously listed coordinates. The airshow will terminate at 4 p.m. on April 5, 1997. This regulation is issued pursuant to 33 U.S.C. 1231 as set out in the authority citation for all of Part 165. The safety zone is bounded by 30-15N, 088-08.2W; 30-14N, 088-08.2W; 30-13.5N, 088-06.5N; and 30-14.5N, 088-06.5W.

#### Regulatory Evaluation

This temporary rule is not a significant regulatory evaluation under Executive Order 12866 and is not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

#### Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this rule under the principles and criteria

contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2. of Commandant Instruction M16475.1 (series), this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available by contacting Commander (mps), Eight Coast Guard District, 501 Magazine Street, New Orleans, LA 70130-3396.

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

Marine safety, Waterways.

#### Regulation

For the reasons set out in the preamble, 33 CFR 165 is amended 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. Section 165.T08-009 is added to read as follows:

#### § 165.T08.009 Safety Zone: Pelican Passage, Dauphin Island, AL.

(a) Location. The following area is a safety zone: Pelican Passage extending ½ mile south and ¾ mile east and west of Dauphin Island Pier, Dauphin Island, Alabama. The zone is needed to protect personnel and property associated with the Town of Dauphin Island will be sponsoring an airshow, with low level acrobatics.

(b) Effective date: This section is effective from 3 p.m. to 4 p.m. on April 5, 1997, unless terminated sooner by the Captain of the Port.

(c) Regulations: In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: March 14, 1997.

**S.E. Hartley,**

*Commander, U.S. Coast Guard, Captain of the Port, Acting.*

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