

Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### 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.

### Protection of Children

The Coast Guard 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 pose an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has 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.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, (34)(g), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### 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 proposes to amend 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:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.

2. Add temporary § 165.T01-099 to read as follows:

#### § 165.T01-099 Safety Zone: Swampscott July 2nd Fireworks, Swampscott, Massachusetts

(a) *Location.* The following area is a safety zone: All waters of the Nahant Bay within a four hundred (400) yard radius of the fireworks barge at position 42°29.81' N, 070°54.95' W.

(b) *Effective date.* This section is effective from 8:30 p.m. July 2, 2001 until 10 p.m. on July 2, 2001.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: 19 June, 2001.

**B.M. Salerno,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. 01-16488 Filed 6-29-01; 8:45 am]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD09-01-033]

RIN 2115-AA97

#### Safety Zone: Northcoast Rockin' & Roarin' Offshore Grand Prix, Lake Erie and Cleveland Harbor, Cleveland, OH

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary Safety Zone

during the Northcoast Rockin' & Roarin' Offshore Grand Prix, Lake Erie and Cleveland Harbor, Cleveland, OH, between 12:30 p.m. and 4:30 p.m. on Saturday, August 11 and Sunday, August 12, 2001. The event will involve approximately 90 race boats traveling at speeds up to 125 m.p.h. These Safety Zone regulations are necessary to ensure the safe navigation of vessels and the safety of life and property. This safety zone is intended to restrict vessel traffic from a portion of the Cleveland Harbor and Lake Erie.

**DATES:** This rule is effective from 12:30 p.m. until 4:30 p.m. daily on Saturday, August 11 and on Sunday, August 12, 2001.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CDG09-01-033 and are available for copying at U.S. Coast Guard Marine Safety Office Cleveland, 1055 East Ninth Street, Cleveland, Ohio, 44114 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant John Natale, Chief Port Operations Department, U.S. Coast Guard Marine Safety Office, 1055 East Ninth Street, Cleveland, Ohio 44114; (216) 937-0111.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard had insufficient time to comply with the time requirements for publishing an NPRM. Publication of a notice of proposed rulemaking would be contrary to the public interest because immediate action is necessary to prevent possible loss of life, injury, or damage to property due to spectator vessel coming into close proximity with racing boats traveling at excessive speeds.

#### Background and Purpose

During this event, approximately 90 boats ranging from 24' to 40' will participate in a series of races. The race course will be a 9.9 mile loop including the waters of Lake Erie and Cleveland Harbor. The race course will consist of a loop beginning at a point just east of the eastern end of the Cleveland Harbor breakwall, proceed in a northwesterly

direction toward the Cleveland Water Crib, then south through the Cleveland Harbor main entrance and east to the starting point. Races consist of 7 to 12 laps per race. The race boats will travel at speeds up to 125 miles per hour. Hazards will consist of the potential for collision with other race vessels, spectator boats or on-shore structures. A perimeter of patrol boats will be placed around the course to help ensure the safety of spectators and race boats. There will be a minimum of six anchored turn boats to mark the course, six medical boats and four or five pace boats. There will be a 1 hour and 15 minute break between the two races on each day if the request is made by commercial shipping vessels to allow commercial shipping traffic to enter and exit the harbor. Such requests can be made by calling Captain of the Port Cleveland or his designated on scene representative on VHF/FM channel 16.

The vessel congestion due to the large number of participating and spectator vessels poses a significant threat to the safety of life. This safety zone is necessary to ensure the safety of life on the navigable waters of the United States.

#### **Regulatory Evaluation**

This rule 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. The Office of Management and Budget has not reviewed it 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone will be in effect for a limited time, and extensive advance notice will be made to the maritime community via Local Notice to Mariners, facsimile, and marine safety information broadcasts. These temporary regulations are tailored to impose a minimal impact on maritime interests without compromising safety. Compensating for any adverse impacts are the favorable economic impacts that these events will have on commercial activity in the area as a whole from the boaters and tourists these events are expected to attract.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have

a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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.

The rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit within the area of the safety zone between 12:30 p.m. and 4:30 p.m. on Saturday, August 11 or Sunday, August 12, 2001. The rule will not have a significant economic impact on a substantial number of small entities for the following reasons: The rule will be in effect for a short time, and though it would apply to the harbor channel and entrance, commercial traffic may be allowed to pass through during a 1 hour and 15 minute break between races. Before the effective period, we will issue an extensive advance notice of the event to the maritime community via Local Notice to Mariners, facsimile, marine safety information broadcasts, and through the local Harbor Safety Committee.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact U.S. Coast Guard Marine Safety Office Cleveland (see **ADDRESSES**).

#### **Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### **Federalism**

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that

require unfunded mandates. An unfunded mandate is a regulation that requires a State, local or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

#### **Taking of Private Property**

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

#### **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.

#### **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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

#### **Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

#### **Energy Effects**

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### **Environment**

We considered the environmental impact of this rule and concluded that

under figure 2-1, paragraph 34(g) and (h), and paragraph 35(a) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. This rule will not cause significant impacts on the environment; significantly change existing environmental conditions; have more than a minimal impact on protected properties; or provide inconsistencies with State, local or Federal laws. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

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

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, 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:** 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. Add temporary section 165.T09-950 to read as follows:

#### § 165.T09-950 Safety zone: Northcoast Rockin' & Roarin' Offshore Grand Prix, Lake Erie and Cleveland harbor, Cleveland, OH.

(a) *Location.* This safety zone includes all waters of Lake Erie within 300-yards of the powerboat race course which is defined by an imaginary line connecting the course turn markers. The race will proceed around the following turn markers, from race start to finish: Beginning at 41°32'34" N, 081°39'02" W, proceeding in a northerly direction to 41°32'37" N, 081°39'02" W; going westerly to 41°32'37" N, 081°39'06" W; continuing northwesterly to 41°31'24.5" N, 081°41'50" W, and then northwesterly to 41°31'33" N, 081°43'38" W; and continuing to 041°31'33" N, 081°43'41" W; then to 041°31'31" N, 081°43'42" W; then southerly to 41°30'27" N, 081°42'48" W; and back to the starting point. These coordinates are based on North American Datum 1983 (NAD 83).

(b) *Effective Dates.* These regulations are in effect between 12:30 and 4:30 p.m. on Saturday, August 11; and during these same times on Sunday, August 12, 2001.

(c) *Regulations.* (1) No vessels shall enter the Safety Zone during the specified times. Permission to deviate from this rule must be obtained from the Coast Guard Captain of the Port or his

representative at (216)-937-0111, any time before August 11, 2001; and during the days of the event (August 11-12) by contacting the Captain of the Port designated on scene representative via VHF/FM radio Channel 16.

Dated: June 22, 2001.

**R.J. Perry,**

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

[FR Doc. 01-16486 Filed 6-29-01; 8:45 am]

**BILLING CODE 4910-15-P**

#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[CGD09-01-009]

RIN 2115-AA97

#### Tall Ships Challenge 2001, Moving Safety Zone, Muskegon Lake, Muskegon, MI

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary Moving Safety Zone during the Tall Ships Challenge 2001 of tall ships in Muskegon Lake and vicinity, Muskegon, Michigan, from 11 a.m. until 5 p.m. on Monday, August 13, 2001. This regulation is necessary to control vessel traffic within the immediate vicinity of the event and to ensure the safety of life and property during this event. This rule is intended to restrict vessel traffic from a portion of Muskegon Lake and Lake Michigan.

**DATES:** This rule is effective from 11 a.m. (local) until 5 p.m. (local) on Monday, August 13th, 2001.

**ADDRESSES:** Comments and related material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09-01-009 and are available for inspection of copying at U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street suite D, Burr Ridge, IL. 60521. Marine Safety Office between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** BM3 Joe C. Corpuz, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd street suite D, Chicago, IL 60521, (630) 986-2175.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On April 4th, 2001 we published a notice of proposed rulemaking (NPRM)

entitled Tall Ships Challenge 2001, Moving Safety Zone, Muskegon Lake, Muskegon, MI in the **Federal Register** (66 FR 17832). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

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**. Any delay of this effective rule would be contrary to the public interest because immediate action is necessary to protect the spectators, spectator vessels, as well as the participating Tall Ships from possible loss of life, injury, or damage to property. Due to their design, the Tall Ships have restricted maneuverability and, in addition, will be transiting an area where maneuverability is restricted by water depths. A moving safety zone around the vessels will help ensure their safety as well as the safety of spectator vessels watching the vessels.

#### Background and Purpose

The Port of Muskegon American Sail Training Association Tall Ships Challenge 2001 will take place in Muskegon, Michigan, from August 9, 2001, through August 13, 2001. During the Tall Ships Challenge 2001, a large number of tall ships will visit Muskegon Lake, with waterside events, in-port tours, and waterside moored vessel viewing. On Monday, August 13, 2001, from 11 a.m. to 5 p.m., the tall ships will take part in a ceremonial departure parade of tall ships, which is expected to attract a large number of spectator vessels. The Coast Guard is establishing a Moving Safety Zone surrounding the participating tall ships to ensure the safety of participating and spectator vessels and personnel.

The Moving Safety Zone will include the areas around and between all the vessels participating in the Tall Ships Challenge 2001 parade of tall ships during their transit in Muskegon Lake and vicinity on Monday, August 13, 2001. The Moving Safety Zone will include the area extending a distance of 100 yards ahead of the lead vessel in the parade, 100 yards abeam each vessel in the parade, and 100 yards astern of the last vessel in the parade. The Moving Safety Zone will ensure that spectator craft do not impede the path of any of the parade vessels.

#### Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 on Regulatory Planning and Review and therefore does not require an assessment