

## Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

## Collection of Information

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

## Federalism

The Coast Guard has analyzed this rule under Executive Order 13132, Federalism, and has 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) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

## 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

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

## Environment

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

## Indian Tribal Governments

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.

## Energy Effects

The Coast Guard has analyzed this proposed 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 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, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09-037 is added to read as follows:

### § 165.T09-037 Safety Zone; Lake Huron, Harbor Beach, MI.

(a) **Location.** The safety zone will encompass all waters of Lake Huron surrounding the fireworks launch platform bounded by the arc of a circle with a 300-yard radius with its center in approximate position 43°51'00" N, 082°38'15" W (NAD 83).

(b) **Enforcement periods.** This temporary final rule will be enforced from 10 p.m. until 11 p.m. on July 20, 2002 and July 21, 2002.

(c) **Regulations.** In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit, or his designated on-scene representative. The designated on-scene Patrol Commander may be contacted via VHF Channel 16. Section 165.23 also contains other general requirements.

Dated: June 30, 2002.

**P.G. Gerrity,**

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

[FR Doc. 02-17381 Filed 7-10-02; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

**[COTP Huntington-02-009]**

**RIN 2115-AA97**

### Safety Zone; Ohio River Miles 355.5 to 356.5, Portsmouth, OH

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the waters of the Ohio River beginning at mile 355.5 and ending at mile 356.5, extending the entire width of the river. This safety zone is needed to provide for the safety of participating vessels and mariners during the Portsmouth Powerboat Races. With the exception of participating vessels and mariners, all other vessels and persons are prohibited from transiting within this safety zone

unless authorized by the Captain of the Port, Huntington or his designated representative.

**DATES:** This rule is effective from 9 a.m. on July 20, 2002 until 7 p.m. on July 21, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP Huntington-02-009] and are available for inspection or copying at Marine Safety Office Huntington, 1415 6th Avenue, Huntington, West Virginia, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Chief Petty Officer, Rick Leffler, Marine Safety Office Huntington, Marine Event Coordinator at (304) 529-5524.

**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, and, 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**. Information was made available to the Coast Guard in insufficient time to publish an NPRM or for publication in the **Federal Register** 30 days prior to the event. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to provide for the safety of participating vessels and mariners.

**Background and Purpose**

The Captain of the Port Huntington, is establishing a safety zone from miles 355.5 to 356.5 on the Ohio River, extending the entire width of the river. This safety zone is necessary to ensure the safety of participating vessels and mariners during the Portsmouth Powerboat Races. Participating vessels are vessels registered with race officials to participate in the Portsmouth Powerboat Races. They include race boats, rescue boats, tow boats and picket boats associated with the race. With the exception of participating vessels and mariners of the Portsmouth Powerboat Races, all other vessels and persons are prohibited from transiting within this safety zone unless authorized by the Captain of the Port, Huntington or his designated representative.

**Regulatory Evaluation**

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This rule will only be in effect for a short period of time and notifications to the marine community will be made through broadcast notice to mariners. The impacts on routine navigation are expected to be minimal.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this 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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit portions of the Ohio River from miles 355.5 to 356.5, from 9 a.m. to 7 p.m. on July 20 and 21, 2002. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. There will be breaks provided every three hours during the races. During these breaks the waterway will be cleared and traffic will be allowed to pass through the zone as directed by the Coast Guard Patrol Commander. Notification of the safety zone and break periods will be made to the marine community by broadcast notice to mariners and event sponsors.

If you are a small business entity and are significantly affected by this regulation please contact Chief Petty Officer Rick Leffler, Marine Safety Office Huntington at (304) 529-5524.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they

could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

**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**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we so discuss the effects of this rule elsewhere in this preamble.

**Taking of Private Property**

This rule will not affect 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 create 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, 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.

### 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 have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A "Categorical Exclusion Determination" is available for inspection or copying where indicated under **ADDRESSES**.

### 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:** 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 1.46.

2. From 9 a.m. on July 20, 2002 until 7 p.m. on July 21, 2002 a new temporary § 165.T08-065 is added to read as follows:

#### § 165.T08-065 Safety Zone; Ohio River Miles 355.5 to 356.5, Portsmouth, Ohio.

(a) *Location.* The following area is a safety zone: the waters of the Ohio River from miles 355.5 to 356.5, extending the entire width of the river.

(b) *Enforcement period.* This section will be enforced from 9 a.m. to 7 p.m. on July 20, 2002 and from 9 a.m. to 7 p.m. on July 21, 2002.

(c) *Definitions. Participating Vessels* are vessels registered with race officials to participate in the Portsmouth Powerboat Races. They include race boats, rescue boats, tow boats and picket boats associated with the race.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of persons and vessels into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Huntington or his designated representative.

(2) Participating vessels are authorized entry within the zone.

(3) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Huntington, or his designated representative. They may be contacted via VHF-FM Channel 13 or 16 or via telephone at (304) 529-5524.

(4) All persons and vessels shall comply with the instructions of the Captain of the Port Huntington and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: June 28, 2002.

**L.D. Stroh,**

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

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**BILLING CODE 4910-15-P**

### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

**[CGD13-02-008]**

**RIN 2115-AA97**

#### Safety Zone; Seafair Blue Angels Performance, Lake Washington, WA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of Lake Washington, Seattle, Washington. The Coast Guard is taking this action to safeguard the participants and spectators from the safety hazards associated with the Seafair Blue Angels Performance. Entry into this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

**DATES:** This rule is effective from 8:30 a.m. on August 1, 2002 until 3 p.m. on August 4, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD13-02-008 and are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Alisa Praskovich, c/o Captain of the Port Puget Sound, at (206) 217-6231.

#### SUPPLEMENTARY INFORMATION:

#### Background and Purpose

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) has not been published for this rule and good cause exists for making it effective without publication of an NPRM in the **Federal Register**. The air show poses several dangers to the public including excessive noise and objects falling from any accidents. Accordingly, prompt regulatory action is needed in order to provide for the safety of spectators and participants during the event. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. Temporary rules of similar size and duration have been in place for the past several years and have not generated significant controversy.

#### Discussion of Rule

The Coast Guard is establishing a temporary safety zone on the waters of Lake Washington, Seattle, Washington, for the Seafair Blue Angels Performance. The Coast Guard has determined it is necessary to close the area in the vicinity of the air show in order to minimize the dangers that low-flying aircraft present to persons and vessels. These dangers include, but are not limited to excessive noise and the risk of falling objects from any accidents associated with low flying aircraft. In the event that aircraft require emergency assistance, rescuers must have