

■ 2. A new temporary § 165.T07–096 to read as follows:

**§ 165.T07–096 Safety Zone Lake Eustis, Eustis, FL.**

(a) *Regulated area.* The Coast Guard is establishing a temporary safety zone on Lake Eustis, Eustis, Florida. The safety zone includes all waters in a 500 yard radius from the barge at position 28° 85.6768' N, 081° 69.152' W.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Jacksonville, Florida.

(c) *Dates.* This rule is effective from 8:30 p.m., August 6, 2004, until 9:30 p.m. on August 6, 2004.

Dated: July 16, 2004.

**David. L. Lersch,**

*Captain, U. S. Coast Guard, Captain of the Port Jacksonville.*

[FR Doc. 04–17268 Filed 7–28–04; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD09–04–095]

RIN 1625–AA87

**Security Zone; Cleveland Harbor, Cleveland, OH**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone for the 2004 International Children's Games—Festivities and Barbeque. The security zone is necessary to ensure the security of the people attending this event on July 29, 2004. The security zone will restrict vessels from the North Coast Harbor and portions of Cleveland Harbor.

**DATES:** This rule is effective from 9 a.m. (local) until 11 p.m. (local), Thursday, July 29, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [CGD09–04–095] and are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Cleveland, 1055 East Ninth Street, Cleveland, Ohio 44114, between the hours of 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Allen Turner, U.S. Coast Guard Marine

Safety Office Cleveland, at (216) 937–0128.

**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 permit application was not received in time to publish an NPRM followed by a final rule before the 2004 International Children's Games-Festivities and Barbeque takes place. 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**. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to prevent possible loss of life, injury, or damage to property.

**Background and Purpose**

The following area is a security zone: All waters located within 300 feet of Voinovich Park and East 9th Street Pier, to include the entire Rock and Roll Inner Harbor.

Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the *Port Cleveland* or his designated on-scene representative. The designated on-scene representative will be the Coast Guard Patrol Commander. The Coast Guard Patrol Commander may be contacted via VHF Channel 16.

**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 this rule under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This determination is based on the limited time that the security zone will be in effect, and the extensive advance notice that will be made to the maritime community via Local Notice to Mariners, facsimile, and marine safety information broadcasts. This regulation is tailored to impose a minimal impact on maritime interests without compromising security.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant 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 would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of recreational or commercial vessels intending to transit a portion of the activated security zone.

This security zone would not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed zone is only in effect for the duration of the event. Before enforcing the security zone, the Coast Guard will issue maritime advisories available to users who may be impacted through notification in the **Federal Register**, Local Notice to Mariners, facsimile, and marine safety information broadcasts.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

**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 and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Cleveland (*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

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 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 would 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 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,

because it would 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. The Coast Guard has 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. The administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule fits the category from paragraph (34)(g) because it establishes a security zone. Under

figure 2-1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

#### 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09-095 to read as follows:

#### § 165.T09-095 Security Zone; 2004 International Children's Games-Festivities and Barbeque, Cleveland, OH.

(a) *Location.* The following area is a security zone: All waters located within 300 feet of Voinovich Park and East 9th Street Pier, to include the entire Rock and Roll Inner Harbor.

(b) *Effective period.* This section is effective from 9 a.m. (local) until 11 p.m. (local) on Thursday, July 29, 2004.

(c) *Regulations.* Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Cleveland or his designated on-scene representative. The designated on-scene representative will be the Coast Guard Patrol Commander. The Coast Guard Patrol Commander may be contacted via VHF Channel 16.

Dated: July 20, 2004.

**Lorne W. Thomas,**

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

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#### DEPARTMENT OF DEFENSE

#### Department of the Army; Corps of Engineers

#### 33 CFR Part 334

#### United States Coast Guard Restricted Area, Coast Guard Base Mobile, AL

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Final rule.