

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. 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 Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves safety for the public and environment and is not expected to result in any significant adverse environmental impact as described in NEPA. An environmental analysis checklist and a categorical exclusion determination will be made available as directed under the ADDRESSES section.

#### List of Subjects 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; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08-0734 to read as follows:

#### § 165.T08-0734 Safety Zone; Thunder on the Gulf, Gulf of Mexico, Orange Beach, AL.

(a) *Location.* The following area is a safety zone: a portion of the Gulf of Mexico for the waters off Orange Beach, Alabama, enclosed by a box starting at a point on the shore at approximately 30°15'39" N, 087°36'42" W, then south to 30°14'54" N, 087°36'42" W, then east, roughly parallel to the shore line to 30°15'22" N, 087°33'31" W, then north to a point on the shore at approximately 30°16'13" N, 087°33'31" W.

(b) *Enforcement dates.* This rule will be enforced daily from 10 a.m. until 4 p.m. on October 6, 2011 through October 9, 2011.

(c) *Regulations.* (1) In accordance with the general regulations in 33 CFR part 165, subpart C, entry into this zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) Vessels desiring to enter into or passage through the zone must request permission from the Captain of the Port Mobile or a designated representative. They may be contacted on VHF-FM channels 16 or by telephone at 251-441-5976.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative. Designated representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) *Informational Broadcasts:* The Captain of the Port or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

Dated: August 4, 2011.

**D.J. Rose,**

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

[FR Doc. 2011-22354 Filed 8-31-11; 8:45 am]

**BILLING CODE 9110-04-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0795]

RIN 1625-AA00

#### Safety Zone; Cleveland National Air Show, Lake Erie, Cleveland, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Lake Erie, Cleveland, OH. This zone is intended to restrict vessels from a portion of Lake Erie during the Cleveland National Air Show. This safety zone is necessary to protect persons and vessels from the potential safety hazards associated with high speed, low altitude acrobatic and military aircraft.

**DATES:** This rule is effective from 7:30 a.m. to 6:30 p.m. daily starting on September 1, 2011 through September 5, 2011.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2011-0795 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0795 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0795 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0795 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Lieutenant Chris F. Mercurio, Waterways Management Division Chief, U.S. Coast Guard Sector

Buffalo, at Coast Guard; telephone 716-843-9343, [SectorBuffaloMarineSafety@uscg.mil](mailto:SectorBuffaloMarineSafety@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property due to the hazards associated with an air show.

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**. For the same reasons discussed in the preceding paragraph, waiting for 30 day notice period run would be impracticable and contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

##### Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels from the potential safety hazards associated with high speed, low altitude acrobatic and military aircraft. Further, the likely combination of large numbers of recreational vessels, congested waterways, and alcohol use, present a significant risk of serious injuries or fatalities.

##### Discussion of Rule

The Coast Guard is establishing a temporary safety zone for the Cleveland National Air Show. The safety zone will encompass all waters of Lake Erie and Cleveland Harbor (near Burke Lakefront Airport) bounded by a line drawn from position 41°30.34' N, 081°42.33' W; to 41°30.84' N, 081°42.82' W; then to 41°32.15' N, 081°39.82' W; then to

41°31.88' N, 081°39.40' W; then east to 41°31.71' N, 081°39.76' W; and then back to the point of origin. The event sponsor will establish marker buoys to outline the safety zone at regular intervals to assist vessels in recognizing this area as a safety zone during the times of enforcement. These coordinates are based upon North American Datum 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Sector Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

##### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that during the short time this zone will be in effect, it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel or legal policy issue.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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 or anchor in the affected portion of the Lake Erie and Cleveland Harbor from 7:30 a.m. to 6:30 p.m. daily on September 1 through September 5, 2011.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone will be in enforced only part of each day of the effective period and vessel traffic can safely pass around the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Buffalo to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

##### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can 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). 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.

##### 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 do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not cause 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

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that this rule and fishing rights protection need not be incompatible. We have also determined that 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this rule or options for compliance are

encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

#### 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. 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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a temporary safety zone, ships can safely pass around the zone, and the zone will be enforced only part of each day during the effective period. Therefore this rule

is categorically excluded under paragraph 34(g) of the Instruction.

A final environmental analysis check list and categorical exclusion determination are 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, 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; 46 U.S.C. Chapters 701, 3306, 3703; 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.T09–0795 to read as follows:

#### § 165.T09–0795 Safety Zone; Cleveland National Air Show, Lake Erie, Cleveland, OH.

(a) *Location.* All waters of Lake Erie and Cleveland Harbor (near Burke Lakefront Airport) bounded by a line drawn from position 41°30.34' N, 081°42.33' W; to 41°30.84' N, 081°42.82' W; then to 41°32.15' N, 081°39.82' W; then to 41°31.88' N, 081°39.40' W; then east to 41°31.71' N, 081°39.76' W; and then back to the point of origin. These coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Effective and Enforcement Period:* This rule is effective from 7:30 a.m. to 6:30 p.m. daily on September 1, 2011 through September 5, 2011. The event sponsor will establish marker buoys to outline the safety zone at regular intervals to assist vessels in recognizing this area as a safety zone during the times of enforcement.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned warrant or petty officer who has been designated

by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port Buffalo will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: August 18, 2011.

**S.M. Wischmann,**

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

[FR Doc. 2011-22356 Filed 8-31-11; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0719]

RIN 1625-AA00

#### Safety Zone; Suttons Bay Labor Day Fireworks, Suttons Bay, Grand Traverse Bay, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Captain of the Port Sault Sainte Marie zone. This zone is intended to restrict vessels from certain portions of water areas within Sector Sault Sainte Marie Captain of the Port zone, as defined by 33 CFR 3.45-45. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

**DATES:** This rule is effective from 8 until 11 p.m. on September 3, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are in part of docket USCG-2011-0719 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0719 in the "Keyword" box, and then clicking "Search". They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West

Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail MST3 Kevin Moe, Prevention Department, Coast Guard, Sector Sault Sainte Marie, MI, telephone (906) 253-2429, e-mail [Kevin.D.Moe@uscg.mil](mailto:Kevin.D.Moe@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. Notice of this fireworks display was not received in sufficient time for the Coast Guard to solicit public comments before the start of the event. Thus, waiting for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public from the hazards associated with maritime fireworks displays.

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**. For the same reasons discussed in the preceding paragraph, waiting for a 30-day notice period to run would be impracticable and contrary to the public interest.

##### Background and Purpose

On the evening of September 3, 2011, the Suttons Bay Chamber of Commerce will conduct a fireworks display to celebrate Labor Day. The celebration will take place next to Suttons Bay Marina Park in Suttons Bay, MI. The Captain of the Port Sault Sainte Marie has determined that the fireworks event poses various hazards to the public, including explosive dangers associated

with fireworks, and debris falling into the water. To minimize these and other hazards, this rule will establish a temporary safety zone around the fireworks display.

##### Discussion of Rule

To mitigate the risks associated with the Suttons Bay Labor Day Fireworks, the Captain of the Port, Sector Sault Sainte Marie will enforce a temporary safety zone in the vicinity of the launch site. This safety zone will encompass all waters of Suttons Bay, in the vicinity of the Municipal Marina, within the arc of a circle with a 500ft radius from the fireworks launch site located on a barge positioned 44°58'39.96" N, 085°38'33.78" W [DATUM: NAD 83].

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative. The Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative may be contacted via VHF channel 16.

##### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We conclude that this rule is not a "significant" regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit