

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG–2012–0163]

RIN 1625–AA00

**Safety Zone; Bay Swim V, Presque Isle Bay, Erie, PA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard will establish a temporary safety zone on the waters of Presque Island Bay, Erie, PA. This safety zone is intended to restrict vessels from a portion of the Presque Island Bay during the Bay Swim V swimming event. The safety zone is necessary to protect participants, spectators, and vessels from the hazards associated with a large scale swimming event.

**DATES:** This regulation will be effective June 30, 2012 from 8:30 a.m. until 11:30 a.m.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket USCG–2012–0163 and are available online by going to [www.regulations.gov](http://www.regulations.gov), inserting USCG–2012–0163 in the “Search” 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email [SectorBuffaloMarineSafety@uscg.mil](mailto:SectorBuffaloMarineSafety@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On March 28, 2012, we published a notice of proposed rulemaking entitled Safety Zone; Bay Swim V, Presque Isle Bay, Erie, PA in the **Federal Register** (77 FR 18739). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

Between 9 a.m. and 11 a.m. on June 30, 2012, a large scale swimming event will take place on Presque Isle Bay near Erie, PA. The Captain of the Port Buffalo has determined that this large scale swimming event across a navigable waterway will pose significant risks to participants and the boating public.

**Discussion of Proposed Rule**

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that a temporary safety zone is necessary to ensure the safety of participants and the boating public during the Bay Swim V. The safety zone will be effective and enforced from 8:30 a.m. until 11:30 a.m. on June 30, 2012.

The safety zone will encompass all U.S. navigable waters of Presque Isle Bay, Erie, PA starting from Vista 3 in Presque Isle State Park at position 42°07'29.30" N, 80°08'48.82" W and extend in a straight line 1,000 feet wide to the Erie Yacht Club at position 42°07'21.74" N, 80°07'58.30" W (DATUM: NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port 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 14 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, 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 Homeland Security (DHS). 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 through the safety zone when permitted by the Captain of the Port.

*Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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 temporary final rule may affect the following entities, some of which may be small entities: the owners of operators of vessels intending to transit or anchor in a portion of Presque Isle Bay near Erie, PA between 8:30 a.m. to 11:30 p.m. on June 30, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only approximately three hours and the safety zone will allow vessels to move freely around the safety zone in Presque Isle Bay. 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 (Pub. L. 104–121), we offer to assist small entities in understanding this 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.

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 LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone 716-843-9343, email. 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.

#### *Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### *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 (adjusted for inflation) 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 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 will not create an environmental risk to health or risk to safety that might 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 will 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. 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 made a determination that this action is one of a category of actions that 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 because it involves the establishment of a safety zone. A final environmental analysis checklist and a 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, 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.T09-0163 to read as follows:

#### **§ 165.T09-0163 Safety Zone; Bay Swim V, Presque Isle Bay, Erie, PA.**

(a) *Location.* The safety zone will encompass all waters of Presque Isle Bay, Erie, PA starting from Vista 3 in Presque Isle State Park at position 42°07'29.30" N, 80°08'48.82" W and extend in a straight line 1,000 feet wide to the Erie Yacht Club at position 42°07'21.74" N, 80°07'58.30" W. (NAD 83)

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced from 8:30 a.m. to 11:30 a.m. on June 30, 2012.

(c) *Regulations.*

(1) In accordance with the general regulations in § 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 Buffalo to act on his behalf.

(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: May 29, 2012.

**S.M. Wischmann,**

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

[FR Doc. 2012-14648 Filed 6-14-12; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0062]

#### Safety Zone; Fleet Week Maritime Festival, Pier 66 Elliott Bay, Seattle, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the Fleet Week Maritime Festival’s Pier 66 Safety Zone in Elliott Bay, WA from 8 a.m. until 8 p.m. on August 1, 2012, however, it will only be enforced thirty minutes prior to, during, and thirty minutes after the annual parade of ships and aerial demonstration. This action is necessary to promote safety on navigable waters. During the enforcement period, entry into, transit through, mooring, or anchoring within this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his Designated Representative.

**DATES:** The regulations in 33 CFR 165.1330 will be enforced from 8 a.m. until 8 p.m. on August 1, 2012.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or email Ensign Anthony P. LaBoy, Sector Puget Sound Waterways Management Division Coast Guard; telephone 206-217-6323, email [SectorPugetSoundWWM@uscg.mil](mailto:SectorPugetSoundWWM@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Safety Zone for the Fleet Week Maritime Festival in 33 CFR 165.1330 on August 1, 2012, from 8 a.m. until 8 p.m.; however, it will only be enforced thirty minutes prior to, during, and thirty minutes after the annual parade of ships and aerial demonstration.

In accordance with the general regulations in 33 CFR Part 165, Subpart C, no vessel operator may enter, transit, moor, or anchor within this safety zone, except for vessels authorized by the Captain of the Port or Designated Representative, thirty minutes prior to the beginning, during and thirty minutes following the conclusion of the Parade of Ships. For the purpose of this rule, the Parade of Ships includes both the pass and review of the ships near Pier 66 and the aerial demonstrations immediately following the pass and review. The Captain of the Port may be assisted by other federal, state, or local agencies as needed.

In order to transit through this safety zone, authorization must be granted by the Captain of the Port, Puget Sound, or his Designated Representative. All vessel operators desiring entry into this safety zone shall gain authorization by contacting either the on-scene U.S. Coast Guard patrol craft on VHF Ch 13 or Ch 16, or Coast Guard Sector Puget Sound Joint Harbor Operations Center (JHOC) via telephone at (206) 217-6002. Requests shall indicate the reason why movement within the safety zone is necessary and the vessel’s arrival and/or departure facility name, pier and/or berth. Vessel operators granted permission to enter this safety zone will be escorted by the on-scene patrol until no longer within the safety zone.

This notice is issued under authority of 33 CFR 165.1330 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts. If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: June 1, 2012.

**S.J. Ferguson,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 2012-14545 Filed 6-14-12; 8:45 am]

BILLING CODE 9110-04-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2012-0166; FRL-9687-1]

#### Approval and Promulgation of Implementation Plans; State of Florida: New Source; Review Prevention of Significant Deterioration: Nitrogen Oxides as a Precursor to Ozone

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve changes to the Florida State Implementation Plan (SIP), submitted by the Florida Environmental Protection (FDEP), through the Division of Air Resource Management, to EPA in two separate SIP revisions on October 19, 2007, and July 1, 2011. These SIP revisions modify Florida’s New Source Review (NSR) Prevention of Significant Deterioration (PSD) program to address requirements promulgated in the 1997 8-hour ozone national ambient air quality standards (NAAQS) Implementation Rule NSR Update Phase II (hereafter referred to as the “Ozone Implementation NSR Update” or “Phase II Rule”) recognizing nitrogen oxide (NO<sub>x</sub>) as an ozone precursor, among other requirements. In addition, both SIP revisions make clarifying and corrective changes to Florida’s regulations. EPA is approving both SIP revisions because the Agency has determined that the changes are in accordance with the Clean Air Act (CAA or Act) and EPA regulations regarding NSR permitting.

**DATES:** *Effective Date:* This rule will be effective July 16, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2012-0166. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.