

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.

#### 4. Collection of Information

This rule does not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. 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.

#### 7. 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.

#### 8. 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.

#### 9. 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.

#### 10. 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.

#### 11. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 12. Technical Standards

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

#### 13. 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 determined 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 involves amendments to navigation regulations and thus, is categorically excluded under paragraph 34(i) of the Commandant Instruction. A Categorical Exclusion Determination (CED) and a preliminary environmental analysis checklist are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### List of Subjects 33 CFR Part 162

Navigation (water), Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 162 as follows:

#### **PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS**

■ 1. The authority citation for part 162 continues to read as follows:

**Authority:** 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.1.

#### **§ 162.138 [Amended]**

■ 2. In § 162.138(a)(1)(ii), remove the words "Detroit River Light" and in their place add the words "D33 stationary light in the Detroit River entrance".

Dated: October 1, 2012.

**M.N. Parks,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 2012-25141 Filed 10-12-12; 8:45 am]

**BILLING CODE 9110-04-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG-2012-0191]

RIN 1625-AA11

#### **Regulated Navigation Area; Columbus Day Weekend, Biscayne Bay, Miami, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending the Columbus Day weekend regulated navigation area on Biscayne Bay in Miami, Florida. The amended regulated navigation area alters the boundaries of the area and expands the enforcement period. These regulations are necessary to protect the public during Columbus Day weekend; a period that has historically had a significant concentration of persons and vessels on the waters of Biscayne Bay. To ensure the public's safety, all vessels within the regulated navigation area are: Required to transit the regulated navigation area at no more than 15 knots; subject to control by the Coast Guard; and required to follow the instructions of all law enforcement vessels in the area.

**DATES:** This rule will be effective November 14, 2012 and will be enforced annually on Columbus Day weekend, starting at 12:01 p.m. on the Saturday before Columbus Day, through 2 a.m. on Monday (the Columbus Day holiday). Columbus Day is the federally recognized holiday occurring annually on the second Monday in October.

**ADDRESSES:** Documents indicated in this preamble are part of docket USCG-2012-0191. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket

Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in room W12-140 on the ground floor of the Department of Transportation West Building, 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 rule, call or email Lieutenant Junior Grade Mike H. Wu, Sector Miami Prevention Department, Coast Guard; telephone (305) 535-7576, email [Mike.H.Wu@uscg.mil](mailto:Mike.H.Wu@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**Table of Acronyms**

DHS Department of Homeland Security  
FR **Federal Register**  
NPRM Notice of Proposed Rulemaking  
RNA Regulated Navigation Area

**I. Regulatory History and Information**

On July 25, 2012, we published a Notice of Proposed Rulemaking (NPRM) entitled USCG-2012-0191 in the **Federal Register** (73 FR 2012-18151). We received no comments on the proposed rule. No public meeting 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**. Our experience in administering the current Biscayne Bay Columbus Day regulated navigation area (RNA), established in 2011 and contained in 33 CFR 165.779, persuaded us that altering the dimensions of the RNA and slightly extending the hours of its enforcement is necessary to better protect the public. During this period, numerous vessels concentrate on the waters of Biscayne Bay during the high traffic hours of Columbus Day weekend. This rule is necessary to protect the public on this congested waterway, including during Columbus Day 2012. Under these circumstances, it would be contrary to the public interest in maintaining safety in Biscayne Bay to delay the effective date of the final.

**II. Basis and Purpose**

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 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; Public Law 107-295, 116

Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to ensure the safe transit of vessels and to protect persons, vessels, and the marine environment within the regulated navigation area during the Columbus Day weekend.

**III. Discussion of Comments, Changes and the Final Rule**

While no comments were receiving following the NPRM, the final rule has been modified by clarifying that Columbus Day weekend is the weekend preceding the second Monday of October.

This final rule revises the existing Biscayne Bay Columbus Day RNA in 33 CFR 165.779 by altering the RNA's boundaries and revising the enforcement period, extending it by two hours into the early morning of Columbus Day. The revised RNA encompasses certain waters of Biscayne Bay between Rickenbacker Causeway Bridge and Coon Point on Elliot Key in Miami, Florida.

All vessels within the regulated navigation area are: (1) Required to transit the area at no more than 15 knots; (2) subject to control by the Coast Guard; and (3) required to follow the instructions of all law enforcement vessels in the area.

The regulated navigation area is necessary to ensure the safety of the public during a time of heightened vessel traffic in the aforementioned area. Each year numerous recreation vessels, which include an annual sailing regatta, congregate in the waters of Biscayne Bay during Columbus Day weekend. The close proximity of numerous vessels within the proposed regulated navigation area during Columbus Day weekend poses a hazardous condition.

The regulated navigation area will result in the transiting of vessels at a reduced speed, thereby significantly reducing the threat of vessel collisions. Requiring vessels within the regulated navigation area to transit at no more than 15 knots will also enable law enforcement officials to identify, respond to, query, and stop operators who may pose a hazard to other vessels in the area. Nothing in this regulation alleviates the requirement for vessel operators from complying with all other federal, state, and local laws in the area, including manatee slow speed zones.

**IV. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses

based on a number of these statutes or executive orders.

**A. 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 Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) The regulated navigation area will be enforced for less than 2 days each year; (2) although, during the enforcement period, vessels are required to transit the area at no more than 15 knots, be subjected to control by the Coast Guard, and be required to follow the instructions of all law enforcement vessels in the area, the regulated navigation area does not prohibit vessels from transiting the area; (3) vessels will still be able operate in surrounding waters that are not encompassed within the regulated navigation area without the restrictions imposed by the regulated navigation area; and (4) advance notification of the regulated navigation area will be made to the local maritime community via Local Notice to Mariners and Broadcast Notice to Mariners.

**2. Impact on Small Entities**

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 received no comments from the Small Business Administration on this rule. 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 may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the regulated navigation area from 12:01 p.m. on Saturday until 2 a.m. on Monday on the weekend preceding the federally recognized holiday of Columbus Day occurring annually on the second

Monday in October. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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.

### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### 6. 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.

### 7. 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.

### 8. 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.

### 9. 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.

### 10. 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.

### 11. 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.

### 12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

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

### 14. 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 involves establishing a regulated navigation area to ensure the safe transit of vessels and to protect persons, vessels, and the marine environment within the regulated navigation area during the Columbus Day weekend, which will be enforced for less than 2 days each year. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

### 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. 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. Revise § 165.779 to read as follows:

#### § 165.779 Regulated Navigation Area; Columbus Day Weekend, Biscayne Bay, Miami, FL.

(a) *Regulated Area.* The regulated navigation area encompasses all waters of Biscayne Bay between Rickenbacker Causeway Bridge and Coon Point, Elliot Key contained within an imaginary line connecting the following points: beginning at Point 1 in position 25°44'49" N, 80°12'04" W; thence southwest to Point 2 in position 25°30'00" N, 80°15'48" W; thence southeast to Point 3 in position 25°28'22" N, 80°15'00" W; thence east to Point 4 in position 25°28'23" N, 80°12'53" W; thence northeast to Point 5 in position 25°30'00" N, 80°12'06" W; thence west to Point 6 in position

25°30'00" N, 80°13'17" W; thence northwest to Point 7 in position 25°30'53" N, 80°13'21" W; thence northeast to Point 8 in position 25°43'57" N, 80°10'01" W; thence back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.* (1) All vessels within the regulated area are required to transit at no more than 15 knots, are subject to control by the Coast Guard, and must follow the instructions of designated representatives.

(2) At least 48 hours prior to each enforcement period, the Coast Guard will provide notice of the regulated area through advanced notice via Local Notice to Mariners and Broadcast Notice to Mariners. The Coast Guard will also provide notice of the regulated area by on-scene designated representatives.

(d) *Enforcement Period.* This rule will be in enforced annually on Columbus Day weekend, starting at 12:01 p.m. on the Saturday before Columbus Day, through 2:00 a.m. on Monday (the Columbus Day holiday). Columbus Day is the federally recognized holiday occurring annually on the second Monday in October.

Dated: September 28, 2012.

**William D. Baumgartner,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. 2012-25126 Filed 10-12-12; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2012-0889]

RIN 1625-AA00

#### Safety Zone; Wounded Warriors Benefit, Lake Erie, Huron, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of Lake Erie, East Huron, Ohio. This regulation is intended to restrict vessels from portions of Lake Erie during the Wounded Warriors

Benefit. This safety zone is necessary to protect spectators and vessels from the hazards associated with launched pumpkins.

**DATES:** This rule is effective from 10:00 a.m. on October 27, 2012, until 7:00 p.m. on October 28, 2012.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG-2012-0889. To view documents mentioned in this preamble as being available in the docket, go <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590-0001 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 the Marine Events Coordinator, LTJG Benjamin Nessia, Marine Safety Unit, Toledo, 420 Madison Avenue Suite 700, Toledo, OH 43604; (419) 418-6040, email [Benjamin.B.Nessia@uscg.mil](mailto:Benjamin.B.Nessia@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

#### A. Regulatory History and 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. The details of this year's event were not submitted 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 inhibit the Coast Guard from protecting

the public and vessels from the hazards associated with the event.

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**. Delaying this rule would be impracticable and contrary to the public interest for the same reasons discussed in the preceding paragraph.

#### B. Basis and Purpose

On October 27, 2012, a pumpkin launching event will take place on Lake Erie in which participants shoot pumpkins from an air cannon into the lake in East Huron, OH. This event is known as the Wounded Warriors Benefit. The Captain of the Port Detroit has determined that this benefit is in close proximity to other watercraft and poses a significant risk to public safety and property. Thus, the Captain of the Port Detroit has determined it necessary to establish a safety zone to control vessel movement around the location of the launch platform which will help ensure the safety of persons and property at these events and help minimize the associated risks.

#### C. Discussion of Proposed Rule

As suggested above, this rule is intended to ensure safety of the public and vessels during the Wounded Warriors Benefit. This rule will be effective from 10:00 a.m. on October 27, 2012 until 7:00 p.m. on October 28, 2012, and enforced from 10:00 a.m. until 7:00 p.m. on October 27, 2012; in the event of inclement weather, the zone will be enforced from 10:00 a.m. until 7:00 p.m. on October 28, 2012. The safety zone will encompass all waters of Lake Erie within a 2500 ft radius of the pumpkin launching site located at position 41° 23' 6.7194" N, - 82° 27' 46.6812" W. All geographic coordinates are North American Datum of 1983 (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The on-scene representative may be present on any Coast Guard, state or local law enforcement, or sponsor provided vessel assigned to patrol the event. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

#### C. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses