

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. 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, 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. 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.T17-003 to read as follows:

#### § 165.T17-003 Security Zone; Waters of the Seventeenth Coast Guard District.

(a) *Definitions.* As used in this section—

*Designated on Scene Representative* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the District Commander or local Captain of the Port (COTP), as defined in 33 CFR part 3, subpart 3.85, to act on his or her behalf.

*Escorted high capacity passenger vessel* means a high capacity passenger vessel that is accompanied by one or more Coast Guard assets or Federal, State or local law enforcement agency assets as listed below:

(1) Coast Guard surface or air asset displaying the Coast Guard insignia.

(2) State law enforcement asset displaying the applicable agency markings and or equipment associated with the agency.

*State law enforcement officers* means any State government law enforcement officer who has authority to enforce State criminal laws.

*High Capacity Passenger Vessel* means a passenger vessel greater than

100 feet in length that is authorized to carry more than 500 passengers for hire.

(b) *Location.* The following area is a security zone: 100-yard radius around escorted high capacity passenger vessels in the navigable waters of the Seventeenth Coast Guard District as defined in 33 CFR 3.85-1, from surface to bottom.

(c) *Regulations.* (1) No vessel may approach within 100 yards of a moving, escorted high capacity passenger vessel within the navigable waters of the Seventeenth Coast Guard District, unless traveling at the minimum speed necessary to navigate safely.

(2) Moored or anchored vessels, which are overtaken by this moving zone, must remain stationary at their location until the escorted vessel maneuvers at least 100 yards past.

(3) The local Captain of the Port may notify the maritime and general public by marine information broadcast of the periods during which individual security zones have been activated by providing notice in accordance with 33 CFR 165.7.

(4) Persons desiring to transit within 100 yards of a moving, escorted high capacity passenger vessel in the Seventeenth Coast Guard District must contact the designated on scene representative on VHF channel 16 (156.800 MHz), VHF channel 13 (156.650 MHz).

(5) If permission is granted to transit within 100 yards of an escorted high capacity passenger vessel, all persons and vessels must comply with the instructions of the District Commander, Captain of the Port or his or her designated representative.

Dated: July 21, 2005.

**James C. Olson,**

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

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**BILLING CODE 4910-15-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD09-05-101]

RIN 1625-AA00

#### Safety Zone; Rohrbach's Ontario Regatta, Hamlin Beach State Park, Monroe County, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone

restricting all vessel traffic on Lake Ontario, Near Hamlin Beach State Park, Monroe County, New York, due to Catamaran Sailboat Races, August 6, 2005 and August 7, 2005. This temporary safety zone is necessary to ensure the safety of both the participants and spectators of the sail boat races.

**DATES:** This rule is effective from 10 a.m. (local) on August 6, 2005 through 12 p.m. (local) on August 7, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [CGD09-05-101] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd, Buffalo, New York 14203, between 8 a.m. (local) and 4 p.m. (local), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Craig A. Wyatt, U. S. Coast Guard Marine Safety Office Buffalo (716) 843-9570.

#### 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 effective date. 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 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. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

#### Background and Purpose

Temporary safety zones are necessary to ensure the safety of vessels and participants. Establishing a temporary safety zone to control vessel movement throughout a portion of Lake Ontario will help minimize risks associated with Catamaran boat races. Upon completion of the races, the Coast Guard Captain of the Port Buffalo or the designated on-scene representative will inform waterway users that the temporary safety zone is no longer being enforced via the Broadcast Notice to Mariners.

#### Discussion of Rule

The temporary safety zone will encompass all waters and adjacent

shoreline of Hamlin Beach State Park at the following location within a 2nm radius of 43°22'11" N, 077°58'27" W. The geographic coordinate is 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 Buffalo or the designated on-scene representative. Entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or the designated on-scene representative. The designated on-scene representative will be the Patrol Commander. The Captain of the Port Buffalo or the Patrol Commander may be contacted by radio on VHF channel 16.

#### 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 Homeland Security (DHS).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under 10(e) of the regulatory policies and procedures of (DHS) is unnecessary.

#### 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 and commercial vessels intending to enter, transit or anchor in the temporary safety zone.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: The temporary safety zone is only in effect for two days and vessel traffic can safely pass outside

the proposed safety zone during the event and vessel traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Buffalo or his designated on-scene representative. Before the effective period, we will issue maritime advisories to users of Lake Ontario by the Ninth Coast Guard District Local Notice to Mariners, and Marine Information Broadcasts. Facsimile broadcasts may also be made.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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. 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 Buffalo (see **ADDRESSES.**)

Small businesses may send comments on 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 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

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 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. 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 proposed 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 made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

#### 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. 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. A new temporary § 165.T09–101 is added to read as follows:

#### § 165.T09–101 Safety Zone; Rohrbach’s Ontario Regatta, Hamlin Beach State Park, Monroe County, NY.

(a) *Location:* The following area is a temporary safety zone: all waters and adjacent shoreline of Hamlin Beach State Park at the following location within a 2nm radius of 43°22’11” N, 077°58’27” W. The geographic coordinate is based upon North American Datum 1983 (NAD 83).

(b) *Effective period:* This rule is effective from 10 a.m. (local) on August 6, 2005 through 12 p.m. (local) on August 7, 2005. This rule will be enforced between 10 a.m. until 5 p.m., on August 6, 2005 and 9 a.m. until 12 p.m., on August 7, 2005.

(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 Coast Guard Captain of the Port Buffalo or his designated on-scene representative.

(2) The “on-scene representative” of the Captain of the Port 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 will be the Patrol Commander. The Patrol Commander will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or the Patrol Commander may be contacted via radio on VHF Channel 16.

(3) 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. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: July 20, 2005.

**S.J. Ferguson,**

*Commander, U.S. Coast Guard, Captain Of The Port Buffalo.*

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD09–05–100]

RIN 1625–AA00

#### Safety Zone; Oswego Harbor Fest Fireworks, Lake Ontario, Oswego, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Oswego Harbor Fireworks Display which will occur on July 30, 2005. This safety zone is necessary to control vessel traffic within the immediate location of the fireworks launch site and to ensure the safety of life and property during the event. This safety zone is intended to restrict vessel traffic from a portion of Lake Ontario.

**DATES:** This temporary final rule is effective from 9 p.m. on July 30, 2005 through 10 p.m. on July 30, 2005.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–05–100] and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd. Buffalo, NY 14203, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Tracey Wirth, U.S. Coast Guard Marine Safety Office Buffalo, 1 Fuhrmann Blvd., Buffalo, NY 14203. The telephone number is (716) 843–9574.

#### 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. 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**. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be 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. The Coast Guard has not received any complaints or negative