

proceeding south along shoreline (east bank) of Cape Fear River for approximately 500 yards; proceeding east inland to Wilmington State Port property line at 34°13'03.196" W, 077°56'52.211" N (Point 10); extending south along Wilmington State Port property line to 34°12'43.409" W, 077°56'50.815" N (Point 11); proceeding to the north entrance of Wilmington State Port at 34°12'28.854" W, 077°57'01.017" N (Point 12); proceeding south along Wilmington State Port property line to 34°12'20.819" W, 077°57'08.871" N (Point 13); continuing south along the Wilmington State Port property line to 34°12'08.164" W, 077°57'08.530" N (Point 14); continuing along State Port property to 34°11'44.426" W, 077°56'55.003" N (Point 15); proceeding south to the main gate of the Wilmington State Port at 34°11'29.578" W, 077°56'55.240" N (Point 16); proceeding south approximately 750 yards to the southeast property corner of the Apex facility at 34°11'10.936" W, 077°57'04.798" N (Point 17); proceeding west to east bank of Cape Fear River at 34°11'11.092" W, 077°57'17.146" N (Point 18); and proceeding south along East bank of Cape Fear River to original point of origin at 34°10'38.394" W, 077°57'16.248" N (Point 1).

(b) *Captain of the Port.* For purposes of this section, *Captain of the Port* means the Commanding Officer of the Marine Safety Office Wilmington, NC, or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on her behalf.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in 33 CFR 165.33.

(2) Persons or vessels requiring entry into or passage within the zone must first request authorization from the Captain of the Port or her designated representative. The Captain of the Port's representative enforcing the zone can be contacted on VHF marine band radio, channel 16. The Captain of the Port can be contacted at (910) 772-2200.

(3) The operator of any vessel within this security zone shall:

(i) Stop the vessel immediately upon being directed to do so by the Captain of the Port or her designated representative.

(ii) Proceed as directed by the Captain of the Port or her designated representative.

(d) *Effective period.* This section is effective from 8 a.m. EST on June 13, 2003, to 11:59 p.m. EST on December 13, 2003.

Dated: June 13, 2003.

Jane M. Hartley,

Captain, U.S. Coast Guard, Captain of the Port, Wilmington, North Carolina.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-03-232]

RIN 1625-AA00

Safety Zone; Red Bull Wings Over Cleveland, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish two safety zones during the Red Bull Wings Over Cleveland in Lake Erie and the Port of Cleveland, Ohio. These safety zones are necessary to control vessel traffic within the immediate vicinity of both barges to protect competitors and course obstacles (wind blades and landing zone markers) from excessive speed and wakes, and to prevent interference with the competition. These safety zone are intended to restrict vessel traffic from a portion of Cleveland Harbor, Lake Erie.

DATES: This rule is effective from 7 a.m. on Thursday, July 31, 2003 through 9 p.m. on Saturday, August 2, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD09-03-232 and are available for inspection or copying at Coast Guard MSO Cleveland between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Allen Turner, Chief Port Operations Department, Coast Guard MSO Cleveland at (216) 937-0128.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This determination was based on the size and location of the safety zones within the waterways, and vessels can still transit around the safety zones. More importantly, publishing an NPRM, which would incorporate a comment period before a final rule could be issued, and delaying the rule's effective date is contrary to public safety because

immediate action is necessary to protect the public, spectators and participants in the event.

For the same reasons, 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**.

Background and Purpose

Red Bull Wings Over Cleveland is an aerial paragliding and skydiving competition over Cleveland Harbor. Competitors will launch from either a barge moored approximately one mile off Voinovich Park in Lake Erie, or from an airplane, and attempt to land on another barge moored approximately 100 ft off Voinovich Park. A safety zone will be established around both barges to protect competitors and course obstacles (wind blades and landing zone markers) from excessive speed and wakes, and to prevent interference with the competition.

Discussion of Proposed Rule

The safety zones will be established from 7 a.m. on Thursday, July 31, 2003 until 9 p.m. on Saturday, August 2, 2003. The safety zones will be established around the two barges used for the competition. No vessel shall enter the safety zone without the permission of the COTP or the on-scene representative, the Patrol Commander.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed this rule under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the size and location of the safety zones within the waterways.

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 commercial vessels intending to transit a portion of the safety zones.

These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zones do not block a navigable channel and vessels can safely transit around the safety zones. Before the effective period, the Coast Guard will issue maritime advisories to users who might be impacted through notification in the **Federal Register**, the Ninth Coast Guard District Local Notice to Mariners, and through Marine Information Broadcasts. Additionally, the Coast Guard has not received any reports from small entities negatively affected during previous similar events.

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 want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Cleveland (*see ADDRESSES*.)

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not 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

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

The Coast Guard has 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a

significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule under Commandant Instruction M16475.1C, 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 categorical exclusion under Section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded under Figure 2-1, paragraph 35(a) of the Instruction, from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 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. From 7 a.m. on July 31, 2003 through 9 p.m. on August 2, 2003 add temporary § 165.T09-232 to read as follows:

§ 165.T09-232 Safety Zones; Red Bull Wings Over Cleveland, Cleveland, OH.

(a) *Location.* The following areas are safety zones:

(1) All waters of Cleveland Harbor bounded by the arc of a circle with a 200-yard radius with its center at approximate position 41°30'41" N, 081°41'51" W. These coordinates are based upon North American Datum 1983 (NAD 83).

(2) All waters of Lake Erie bounded by the arc of a circle with a 200-yard radius with its center at approximate position 41°31'23" N, 081°42'30" W (NAD 83).

(b) *Enforcement period.* This section will be in effect from 7 a.m. on Thursday, July 31, 2003 until 9 p.m. on Saturday, August 2, 2003.

(c) *Regulations.* No vessel shall enter the safety zones. Permission to deviate from the above rules must be obtained from the Captain of the Port or the

Patrol Commander via VHF/FM radio, Channel 16 or by telephone at (216) 937-0111.

Dated: July 2, 2003.

Lorne W. Thomas,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05-03-072]

RIN 1625-AA00

Security Zone; Bogue Sound, Morehead City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone around the grounds of the North Carolina State Port Authority Terminal at Morehead City south of Highway 70 and the waters of Beaufort Inlet Bogue Sound. This action is necessary to provide security for vessels involved in loading or offloading operations and the State Port Authority Terminal during a military operation. The security zone will prevent access to unauthorized persons who may attempt to enter the secure area via Bogue Sound or the North Carolina State Port Authority Terminal.

DATES: This rule is effective from 8 a.m. EST on June 13, 2003, to 11:59 p.m. EST on December 13, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD-05-03-072 and are available for inspection or copying at Coast Guard Marine Safety Office, 721 Medical Center Drive, Suite 100, Wilmington, North Carolina 28401, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Diego Benavides, Port Security, (910) 772-2232.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. The Coast Guard is promulgating these security zone regulations to protect vessels loading or offloading and the surrounding vicinity for reasons directly related to military

operations and national security. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation. This temporary security zone is necessary to provide for the security of the United States.

Background and Purpose

The security zone is designed to prevent access by unauthorized persons who may attempt to enter the secure area via Bogue Sound and the North Carolina State Port Authority terminal.

Discussion of Rule

For security reasons, this rule limits access to the regulated area to those vessels and persons authorized to enter and operate within the security zone. The Captain of the Port or her designated representative may authorize access to the security zone. Mariners must contact the control vessel on VHF-FM channel 16 to request access to transit through the regulated area. In addition, the Coast Guard will make notifications via maritime advisories.

Regulatory Evaluation

This proposed 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).

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) The COTP or her representative may authorize access to the security zone; (ii) the security zone will be in effect for limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 and operators of vessels intending to transit or anchor within the security zone while it is in effect. The security zone encompasses the water areas of Beaufort Inlet and Bogue Sound within a line connecting the following points: beginning at 34°42'53" N, 076°41'12" W (Point 1); extending north along the western shore of Radio Island to 34°43'24" N, 076°41'9" W (Point 2); extending westward 2300 yards to 34°43'16" N, 076°42'48" W (Point 3); extending approximately 400 yards west to 34°43'8" N, 076°43' W (Point 4); extending south approximately 760 yards to 34°42'74" N, 076°83' W (Point 5); extending southeast approximately 2450 yards to 34°41'94" N, 076°41'68" W (Point 6); extending northeast approximately 1000 yards 34°42'53" N, 076°41'12" W (Point 1). And personnel attempting to enter the portion of the grounds of the North Carolina State Port Authority Terminal at Morehead City south of Highway 70 while the security zone 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 this rule so that they can better evaluate its effects on them and participate in the rulemaking process. 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 the address listed under **ADDRESSES**.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).