

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, 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 preliminary determination that this action is not likely to have a significant effect on the human environment. Draft documentation supporting this preliminary determination is 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 in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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, 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.T09–016 to read as follows:

§ 165.T09–016 Safety Zone; Marine City Maritime Festival Fireworks, St. Clair River, Marine City, MI.

(a) *Location.* The following area is a temporary safety zone: All waters of the St. Clair River, off of Marine City, MI, bounded by straight lines connecting the following points: 42–42–51.5N/082–29–13.97W; 42–43–07.55N/082–29–08.12W; 42–43–04.93N/082–28–54.11W; 42–42–48.58N/082–29–00.81W (NAD 83). This safety zone is located in the St. Clair River, east of the lighthouse in Marine City, MI, near the center of the river.

(b) *Effective period.* This rule is effective from 9:30 p.m. on September 22, 2007 to 11:30 p.m. on September 23, 2007. In the event that the fireworks are cancelled due to inclement weather on September 22, then the rule will be effective from 9:30 p.m. to 11:30 p.m. on September 23, 2007.

(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 Detroit, 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 Detroit or his designated on-scene representative.

(3) The “designated 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 designated on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or his designated on-scene representative to obtain permission to do so. 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 or his designated on-scene representative.

Dated: May 15, 2007.

P. W. Brennan,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–017]

RIN 1625–AA00

Safety Zone; St. Mary’s River, Sault Ste. Marie, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a permanent safety zone for the annual River Rampage Offshore Power Boat Races on the St. Mary’s River. This safety zone is necessary to ensure the safety of spectators and vessels from the hazards associated with high speed vessels. This safety zone is intended to restrict recreational vessel traffic from a portion of the St. Mary’s River during the last week of July.

DATES: Comments and related materials must reach the Coast Guard on or before July 16, 2007.

ADDRESSES: You may mail comments and related material to Coast Guard Sector Sault Ste. Marie, 337 Water Street, Sault Ste. Marie, MI 49783. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Sector Sault Ste. Marie between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have further questions on this rule, contact Commander Reed Stephenson, U.S. Coast Guard Sector Sault Ste. Marie, at (906) 635–3220.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to submit comments and related materials. If you submit a comment, please include your name and address, identify the docket number for this rulemaking [CGD09–07–017], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you would like to know that they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a public meeting (see **ADDRESSES**) explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This permanent safety zone is necessary to ensure the safety of waterways users and the event participants from hazards associated with waterways racing. Based on accidents that have occurred in other Captain of the Port zones, and the high-speed hazards of racing, The Captain of the Port Sault Ste. Marie has determined boat racing in close proximity to other watercraft poses significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, and high speed craft could easily result in serious injuries or fatalities. Establishing a safety zone to control

recreational vessel movement around the location of the raceway will help to ensure the safety of persons and property at these events and help minimize the associated risks. Prior to the start of each race heat and/or practice session, the Patrol Commander will contact VTS Sault Ste. Marie to identify any commercial traffic that is either upbound or downbound on the St. Mary's River. If a commercial vessel is close to clearing the locks downbound, or approaching Nine Mile Point upbound, the VTS will advise the Patrol Commander and the event will be delayed until the vessel(s) clear the area. The Coast Guard has not received notice of any impact caused by the safety zone created for this event in past years.

Discussion of Proposed Rule

The safety zone is established on the St. Mary's River, adjacent to Sault Ste. Marie, MI. The safety zone will encompass all waters of the St. Mary's River within the following coordinates: 46°29'48" N, 084°18'75" W, then northeast to 46°29'69" N, 084°18'24" W, then southeast to 46°29'32" N, 084°17'87" W, then southwest to 46°29'19" N, 084°18'11" W. This includes all waters encompassed between two lines, one line running northeast from Welch's Dock for 1,000 yards and one line running northeast from the Sault Ste. Marie Sugar Island Ferry Dock for 500 yards. This safety zone will be enforced the last weekend in July with the following Monday as a rain date from sunrise to termination of the event. All geographic coordinates are North American Datum of 1983 (NAD 83).

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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the short amount of time that vessels will be restricted from the zones, and the actual 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 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 proposed rule would not have a significant economic impact on a substantial number of small entities. We suspect that there may be small entities affected by this rule but are unable to provide more definitive information as to the number of small entities that may be affected. The risk, outlined above, is severe and requires that immediate action be taken. The Coast Guard will evaluate whether a substantial number of small entities are affected as more information becomes available.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will 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 offered to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. 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 proposed rule would call 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might 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 safety zone and fishing rights protection need not be incompatible. We have also determined that this Proposed 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 Proposed 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 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 proposed 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 and Department of Homeland Security Management Directive 5100.1, 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 preliminary determination that this action is not likely to have a significant effect on the human environment. Draft documentation supporting this preliminary determination is 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 in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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, 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 § 165.937 to read as follows:

§ 165.937 Safety Zone; Annual River Rampage Offshore Power Boat Races in the Captain of the Port Sault Ste. Marie Zone.

(a) *Location.* The safety zone is established for the waters of the St. Mary's River, adjacent to Sault Ste. Marie, MI. The safety zone will encompass all waters of the St. Mary's River within the following coordinates: 46°29'48" N, 084°18'75" W, then northeast to 46°29'69" N, 084°18'24" W, then southeast to 46°29'32" N, 084°17'87" W, then southwest to 46°29'19" N, 084°18'11" W. [DATUM: NAD 83].

(b) *Enforcement date.* Last weekend in July with the following Monday as a rain date; sunrise to termination of event.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light or other means, the operator shall proceed as directed.

(3) Recreational vessels may request permission from the Captain of the Port Sault Ste. Marie to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Sector Sault Ste. Marie on Channel 16, VHF-FM.

(4) Marine Event Permits (CG-4423) will still need to be sent to U. S. Coast Guard Sector Sault Ste. Marie, MI.

(c) *Notice of annual enforcement period.* The Captain of the Port Sault Ste. Marie will cause notice of enforcement of the safety zone established by this section to be made by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). The COTP may also issue notices in the Ninth Coast Guard District Local Notice to Mariners the dates and times this section will be enforced each year.

Dated: May 10, 2007.

E.Q. Kahler,

Captain, U.S. Coast Guard, Captain of the Port Sault Ste. Marie.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018–AV14

Migratory Bird Permits; Religious or Spiritual Use of Feathers by Native Americans

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking; notice of intent to prepare an environmental assessment; request for comments and information.

SUMMARY: The U.S. Fish and Wildlife Service is considering amending its migratory bird regulations to allow Native Americans to acquire parts and feathers from birds other than eagles for religious or spiritual use. No current regulations govern the acquisition and possession of migratory bird parts and feathers of birds other than eagles for Native American religious or spiritual use. We have a compelling interest in protecting the traditional religious and spiritual resource values of Native Americans as part of our trust relationship with federally recognized Native American tribes. We recognize the need to balance this compelling reason against the equally compelling basis for the Migratory Bird Treaty Act. We seek information necessary to prepare an environmental assessment under the National Environmental Policy Act and its implementing regulations for a possible proposed rule.