

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 Department of Homeland Security Directive 0023.1 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 preliminary determination that 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 safety zone around a fireworks display. The display is taking place on a beach and the safety zone is intended to keep mariners away from any hazardous materials that may land in the water. A preliminary “Environmental Analysis Check List” and preliminary categorical exclusion determination, supporting this determination will be available in the docket where indicated under the “Public Participation and Request for Comments” section of this preamble. This rule is categorically excluded, under section 2.B.2, Figure 2–1, paragraph 34(g), of the Instruction and neither an environmental assessment nor an environmental impact statement is required. We seek any comments or information that may lead to discovery of a significant environmental impact from this proposed rule.

#### List of Subjects 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 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. 3306, 3703 and Chapter 701; 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. Add § 165.T05–0012 to read as follows:

#### § 165.T05–0012 Safety Zone: Gwynn Island 4th of July Fireworks, Piankatank River, Gwynn Island, VA.

(a) Regulated Area: The following area is a safety zone: specified waters of the Piankatank River located within a 560 foot radius of the fireworks display at the approximate position of 37°29′22″ N/76°18′54″ W (NAD 1983) in the vicinity of Gwynn Island, VA.

(b) Definition: For the purposes of this part, Captain of the Port Representative means: any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his/her behalf.

(c) Regulations: (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his/her designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone Number (757) 668–5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(d) Enforcement Period: This regulation will be enforced on July 4, 2009, from 9 p.m. until 10:15 p.m., with a rain date of July 5, 2009, from 9 p.m. until 10:15 p.m.

Dated: April 2, 2009.

**Patrick B. Trapp,**

*Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.*

[FR Doc. E9–8722 Filed 4–15–09; 8:45 am]

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### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2009–0089]

RIN 1625–AA00

#### Safety Zone; Red Bull Air Race, Detroit River, Detroit, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishing a temporary safety zone on the Detroit River, Detroit, Michigan. This Zone is intended to restrict vessels from portions of the Detroit River during the Red Bull Air Race. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with air races.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 1, 2009.

**ADDRESSES:** You may submit comments identified by docket number USCG–2009–0089 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail CDR Joseph Snowden, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9580, e-mail [Joseph.H.Snowden@uscg.mil](mailto:Joseph.H.Snowden@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:**

### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0089), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail or hand delivery, but please use only one of these means. A comment submitted online via <http://www.regulations.gov> will be considered received by the Coast Guard when the comment is successfully transmitted; a comment submitted via fax, hand delivery, or mail, will be considered as having been received by the Coast Guard when the comment is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert “USCG–2009–0089” in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–0089 in the Docket ID box, press Enter, and then click on the item in the

Docket ID column. 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting 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

The proposed temporary safety zone is necessary to ensure, to the extent practicable, the safety of vessels and the public from hazards associated with an air race. The Captain of the Port Detroit has determined that air races in close proximity to watercraft and infrastructure pose a significant risk to public safety and property. The likely combination of large numbers of recreation vessels, airplanes traveling at high speeds and performing aerial acrobatics, and large numbers of spectators in close proximity on the water could result in serious injuries or fatalities. Establishing a safety zone around the location of the race course will help ensure the safety of persons and property at these events and help minimize the associated risks. Likewise, the Windsor Port Authority intends to restrict vessel movement on the Canadian side of the Detroit River. The exclusionary area on the Canadian side will be aligned with the east and west borders of the U.S. safety zone and will extend to the shoreline along Windsor, ON.

### Discussion of Proposed Rule

This proposed rule is intended to ensure safety of the public and vessels

during the setup, course familiarization, time trials, and race in conjunction with the Red Bull Air Race. The air race and associated set-up and removal will occur between 9 a.m., June 11, 2009 and 6:30 p.m., June 14, 2009. The safety zone will be enforced daily from 9 a.m. to 6:30 p.m., June 11th through 14th, 2009. Specifically, on June 11–12, 2009, the river closure will be enforced as needed and therefore will be intermittent. On June 13, 2009, the river closure will total no more than 5 hours between the hours of 9 a.m. to 6:30 p.m. On June 14, 2009, the river closure will total no more than 6 hours between the hours of 9 a.m. to 6:30 p.m. The Coast Guard expects to have additional information from the event organizer before publication of the final rule, and expects to provide more specific information in the final rule regarding hours of enforcement for each day.

The safety zone will encompass all navigable waters of the United States on the Detroit River, Detroit, MI, bound by a line extending from a point on land southwest of Joe Louis Arena at position 42°19.4' N; 083°3.3' W, northeast along the Detroit shoreline to a point on land at position 42°20.0' N; 083°1.2' W, southeast to the international border with Canada at position 42°19.8' N 083°1.0' W, southwest along the international border to position 42°19.2' N; 083°3.3' W, and northwest to the point of origin at position 42°19.4' N; 083°3.3' W. (DATUM: NAD 83). The Captain of the Port 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. Such means of notification will include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. The Captain of the Port will issue a broadcast Notice to Mariners notifying the public when enforcement of the safety zone is terminated.

### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### Regulatory Planning and Review

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects minimal adverse impact to mariners from the zone's activation.

#### **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.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the above portion of the Detroit River between 9 a.m. and 6 p.m. on June 11, through June 14, 2009.

The proposed 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 approximately six hours each day of the race. Additionally, small entities such as passenger vessels, have been involved in the planning stages for this event and have had ample time to make alternate arrangements with regards to mooring positions and business operations during the hours this safety zone will be in place. Furthermore, local sailing and yacht clubs will be notified prior to the event, by Coast Guard Station Belle Isle, with information on what to expect during the event with the intention of minimizing interruptions in their normal business practices. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Detroit to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast Notice to Mariners that the regulation is in effect. Additionally, the COTP will suspend enforcement of the safety zone if the event, for which the zone is established, ends earlier than the expected time.

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 CDR Joseph Snowden, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9580, e-mail [Joseph.H.Snowden@uscg.mil](mailto:Joseph.H.Snowden@uscg.mil). The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### **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**

This proposed 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**

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 Department of Homeland Security Management Directive 0023.1 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 preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves the establishment of a safety zone. Based on our preliminary determination, 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. Because this event establishes a safety zone, paragraph (34)(g) of the Instruction applies.

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. 3306, 3703 and Chapter 701; 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. Section 165.T09–0089 is added to read as follows:

#### § 165.T09–0089 Safety Zone; Red Bull Air Race, Detroit River, Detroit, MI.

(a) *Location.* The following area is a temporary safety zone: All U.S. waters of the Detroit River, Detroit, MI, bound by a line extending from a point on land southwest of Joe Louis Arena at position 42°19.4′ N; 083°3.3′ W, northeast along the Detroit shoreline to a point on land at position 42°20.0′ N; 083°1.2′ W, southeast to the international boarder with Canada at position 42°19.8′ N 083°1.0′ W, southwest along the international border to position 42°19.2′ N; 083°3.3′ W, and northwest to the point of origin at position 42°19.4′ N; 083°3.3′ W. (DATUM: NAD 83).

(b) *Enforcement Period.* The safety zone will be enforced daily from 9 a.m. to 6:30 p.m. on June 11, 2009 through June 14, 2009.

(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 “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 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 on-scene representative to obtain permission to do so.

(5) 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 on-scene representative.

Dated: March 26, 2009.

**J.D. Jenkins,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Detroit.*

[FR Doc. E9–8759 Filed 4–15–09; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

RIN 0648–AX72

#### Identification and Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, or Unregulated Fishing or Bycatch of Protected Living Marine Resources

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public hearing; request for comments.

**SUMMARY:** On January 14, 2009, NMFS published a proposed rule for developing identification and certification procedures to address illegal, unreported, or unregulated (IUU) fishing activities and bycatch of protected living marine resources (PLMRs) pursuant to the High Seas Driftnet Fishing Moratorium Protection Act (Moratorium Protection Act). On March 3, 2009, NMFS announced five public hearings to discuss and collect comments on the issues described in the proposed rule. This notice is to announce an additional public hearing.

**DATES:** The additional hearing will be held on April 27, 2009, from 11:00 a.m. to 1:00 p.m. The due date for written comments has not changed and must be received no later than 5:00 p.m. Eastern time on May 14, 2009.

**ADDRESSES:** The additional public hearing will be held at 1601 Kapiolani Blvd, 11<sup>th</sup> Floor, (the main reception is on the 11th floor and all visitors must check in), Honolulu, HI 96814; phone 808–944–2280.

Written comments on this action, identified by RIN 0648–AV51, may be submitted by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.

- Mail: Laura Cimo, Trade and Marine Stewardship Division, Office of International Affairs, NMFS, 1315 East–West Highway, Silver Spring, MD 20910.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter