

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[Docket No. USCG-2009-0343]****RIN 1625-AA00****Safety Zone; ESL Air and Water Show, Lake Ontario, Ontario Beach Park, Rochester, NY****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone for an air and water show in the Captain of the Port Buffalo zone. This rule is intended to restrict vessels from areas of water during events that pose a hazard to public safety. The safety zone established by this rule is necessary to protect spectators, participants, and vessels from the hazards associated with an air and water show.

**DATES:** This rule is effective from 10 a.m. May 28, 2009 through 4:30 p.m. May 31, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0343 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Coast Guard Sector 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:** If you have questions on this temporary rule, call Lieutenant Brian Sadler, Prevention Department, U.S. Coast Guard Sector Buffalo, at (716) 843-9385. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:****Regulatory 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 immediate action is necessary to ensure the safety of vessels, spectators, participants, and others in the vicinity of the marine event on the dates and times this rule will be in effect and delay would be contrary to the public interest.

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** because delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the public’s safety.

**Background and Purpose**

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with air and water shows. Based on accidents that have occurred in other Captain of the Port zones, the Captain of the Port Buffalo has determined air and water shows pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, and alcohol use could easily result in serious injuries or fatalities.

**Discussion of Rule**

The rule and associated safety zones are necessary to ensure the safety of vessels and people during events in the Captain of the Port Buffalo area of responsibility that may pose a hazard to the public. The safety zone is described in subparagraph (1) of this regulation. The safety zone will be enforced only immediately before and during the event which poses a hazard to the public and only upon notice by the Captain of the Port. The Captain of the Port Buffalo 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**, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or 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 established by this section is suspended.

**Regulatory Analyses**

We developed this 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 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 rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The Coast Guard’s use of this safety zone will be periodic in nature, of short duration, and designed to minimize the impact on navigable waters. This safety zone will only be enforced immediately before and during the time the event occurs. Furthermore, this safety zone has been designed to allow vessels to transit unrestricted to portions of the waterway not affected by the safety zone. The Coast Guard expects insignificant adverse impact to mariners from the activation of this safety zone.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this 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 would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the area designated as the safety zone in subparagraph (1) during the date and time the safety zone is being enforced. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone in this rule would be in effect for short periods of time and only once per year. The safety zone has been designed to allow traffic to pass safely around the zone whenever possible and vessels will

be allowed to pass through the zone with the permission of the Captain of the Port.

#### 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 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 LT Brian Sadler, Prevention Department, Coast Guard Sector Buffalo, Buffalo, NY at (716) 843–9385.

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.

#### 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

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 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 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 is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone and, therefore, paragraph (34)(g) of the Instruction applies. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new temporary § 165.T09–0343 to read as follows:

**§ 165.T09–0343 Safety Zone; ESL Air and Water Show, Lake Ontario, Ontario Beach Park, Rochester, NY.**

(a) *Location.* The following area is a temporary safety zone: All waters at the head of the Genesee River and Lake Ontario surrounding Ontario Beach Park

located at 43°16'18.202" N., 077°36'38.919" W., 43°15'53.209" N., 077°37'00.698" W., 43°15'46.366" N., 077°35'30.524" W., 43°15'21.376" N., 077°35'52.307" W. All Geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective Period.* This regulation is effective from 10 a.m., May 28, 2009 through 4:30 p.m., May 31, 2009. This zone will be enforced from 10 a.m. to 4:30 p.m. May 28, 2009 through May 31, 2009.

(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) Commercial vessels may request permission from the Captain of the Port Buffalo 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 Buffalo on Channel 16, VHF-FM.

Dated: May 1, 2009.

**R.S. Burchell,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

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BILLING CODE 4910-15-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### 45 CFR Parts 302, 303 and 307

RIN 0970-AC01

#### State Parent Locator Service; Safeguarding Child Support Information

**AGENCY:** Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), Department of Health and Human Services.

**ACTION:** Delay of effective date.

**SUMMARY:** In accordance with the memorandum of January 20, 2009, from the Assistant to the President and Chief

of Staff, entitled "Regulatory Review," this action delays until December 30, 2010, the effective date of the final rule entitled "State Parent Locator Service; Safeguarding Child Support Information," published in the **Federal Register** on September 26, 2008 (73 FR 56422). The delay in effective date is necessary to give Department officials the opportunity for further review of the issues of law and policy raised by this rule.

**DATES:** The effective date of the rule amending 45 CFR parts 302, 303, and 307 published in the September 26, 2008 **Federal Register** (73 FR 56442), which was delayed on March 20, 2009 (74 FR 11879), is further delayed until December 30, 2010.

**FOR FURTHER INFORMATION CONTACT:** Yvette Riddick, Office of Child Support Enforcement, Division of Policy, (202) 401-4885.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On September 26, 2008, a final rule following notice and comment period entitled "State Parent Locator Service; Safeguarding Child Support Information" was published in the **Federal Register** [73 FR 56422] to address requirements for State Parent Locator Service responses to authorized location requests, State IV-D program safeguarding of confidential information, authorized disclosures of this information, and restrictions on the use of confidential data and information for child support purposes with exceptions for certain disclosures permitted by statute. The effective date given for the final rule was March 23, 2009.

In accordance with the memorandum of January 20, 2009, from the Assistant to the President and Chief of Staff entitled "Regulatory Review" [74 FR 4435], on March 3, 2009, we published a notice in the **Federal Register** [74 FR 9171], seeking public comment on a contemplated delay of 60 days in the effective date of the rule entitled "State Parent Locator Service; Safeguarding Child Support Information." In response to comment, the Department issued a subsequent notice on March 20, 2009 [74 FR 11879] delaying the effective date of the September 26, 2008 rule by 60 days until May 22, 2009, in order to permit officials of the new Administration an opportunity to review and approve the policies in the regulation.

However, subsequent to publication of the March 20, 2009 notice, we determined that additional time would be needed for Department officials to

complete their review of the rule and to assess fully the comments received in response to the March 3, 2009 notice. As a result, on April 15, 2009, a notice was published in the **Federal Register** [74 FR 17445] indicating that the Department was contemplating a further delay in the effective date of the "State Parent Locator; Safeguarding Child Support Information" final rule to December 30, 2010. As discussed below, the April 15, 2009 notice generated three comments, all of which supported the December 30, 2010 effective date.

##### II. Provision of This Action

This action further delays the effective date of the September 26, 2008 final rule. The effective date of the final rule which would have been May 22, 2009, is now December 30, 2010. The delay in the effective date is necessary to give Department officials the opportunity for further review of the issues of law and policy raised by the rule.

##### III. Comments Received in Response to the April 15, 2009 Notice

We received three comments in response to the April 15, 2009 notice with comment period on the contemplated delay in the effective date of the "State Parent Locator Service; Safeguarding Child Support Information" final rule. Although the April 15, 2009 notice invited comments on the contemplated extension of the effective date of the regulation to December 30, 2010, it also generated comments recommending changes to substantive areas of the final rule. All commenters supported the delayed effective date and as a result, we are delaying the effective date of the rule to December 30, 2010 to allow sufficient time for Department officials to review issues of law and policy raised by the rule.

A summary of the comments received follows:

**Comments:** All three commenters supported the contemplated delay in the effective date. Two of the commenters also provided comments that are substantive in nature. One commenter was concerned about the provisions of the rule that authorize disclosure of State child support data to private child support collection agencies (PCAs), companies that do not operate under a contract with the State or county child support program, but instead contract directly with custodial parents. The same commenter also recommended that the Department review the child welfare provision of the rule to ensure that it fully complies with the Fostering Connections to Success and Increasing