

Patrol Commander (PATCOM). The PATCOM may be contacted on VHF-FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other Federal, State, or local agencies.

Dated: April 6, 2010.

T. H. Farris,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2010-9126 Filed 4-20-10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2010-0138]

RIN 1625-AA00

Safety Zone; New York Air Show at Jones Beach State Park, Atlantic Ocean off of Jones Beach, Wantagh, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a permanent safety zone for the annual New York Air Show at Jones Beach State Park in Wantagh, New York. This proposed safety zone is necessary to provide for the safety of navigation and protection of the maritime public from the hazards inherent with an air show which consist of aircraft performing aerobatic maneuvers over the Atlantic Ocean off of Jones Beach State Park, as specified in this proposal. Entry into this zone would be prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, Connecticut.

DATES: Comments and related material must be received by the Coast Guard on or before May 21, 2010.

ADDRESSES: You may submit comments identified by docket number USCG-2010-0138 using any one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.
- *Fax:* 202-493-2251.
- *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.

• *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: Chief Petty Officer Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203-468-4459, e-mail:

christie.m.dixon@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-2010-0138), 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. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it 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>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2010-0138" in the "Keyword" box. Click "Search" 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>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2010-0138" and click "Search." Click the "Open Docket Folder" in the "Actions" 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 plan on holding 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**.

For information on facilities or services for individuals with disabilities

or to request special assistance at the public meeting, contact Chief Petty Officer Christie Dixon at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Background and Purpose

The New York State Office of Parks, Recreation and Historic Preservation sponsors an annual air show at Jones Beach State Park during the week before Memorial Day. Jones Beach State Park is located on the south shore of Long Island, New York. The Air Show consists of aircraft performing aerobatics in close proximity to other aircraft over a specified area of the Atlantic Ocean off of Jones Beach State Park. Several aerial groups will participate in the Air Show. The entire Air Show will take place over the waters of the Atlantic Ocean immediately to the south of Jones Beach Island. The Coast Guard is proposing to establish a safety zone in order to provide for the safety of the maritime community and spectators viewing the Air Show from the water should an accident, such as a collision of aircraft, occur during the Show. The air shows generally take place from 10 a.m. to 3 p.m. every day from Thursday through Sunday before Memorial Day. The enforcement period for the Safety Zone will be from 9 a.m. to 3:30 p.m. each day. These times, while longer than the actual air shows, will provide sufficient time to clear the safety zone area prior to the shows, as well as providing additional time should they run over the scheduled period. The actual air show will be conducted within an area which is contained in, and smaller than, the safety zone area outlined by the coordinates provided below. The larger safety zone area is needed to protect the boating community from the inherent hazards of air shows.

Discussion of Proposed Rule

The Coast Guard is proposing to establish a permanent safety zone for the Jones Beach State Park Air Show. The safety zone would be established by reference to geographic coordinates as follows: Beginning at a point on land located in Jones Beach State Park at approximate position 40°35'06" N, 073°32'37" W, then running east along the shoreline of Jones Beach State Park to approximate position 40°35'49" N, 073°28'47" W; then running south to a position in the Atlantic Ocean off of Jones Beach at approximate position 40°35'05" N, 073°28'34" W; then running west to approximate position 40°34'23" N, 073°32'23" W; then running north to the point of beginning at approximate position 40°35'06" N,

073°32'37" W. All coordinates are North American Datum 1983. The safety zone will be enforced May 24th, 2010 through May 30th, 2010 from 9:30 a.m. to 3:30 p.m. and annually thereafter on the Thursday through Sunday before Memorial Day in May. Notification for future dates of the New York Air Show at Jones Beach State Park will be made via a Notice of Enforcement in the **Federal Register**, marine broadcasts and broadcast notice to mariners.

Entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound or by Designated On-scene Patrol Personnel. Any violation of the safety zone described herein is punishable by, among other things, civil and criminal penalties, *in rem* liability against the offending vessel, and the initiation of suspension or revocation proceedings against Coast Guard-issued merchant mariner credentials.

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 regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: The zone would only be enforced for a temporary period each day over a four day period; and vessels may transit in all areas around the zone at all times.

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 proposed rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in those portions of the Atlantic Ocean off of Jones Beach State Park, Jones Beach, New York covered by the safety zone.

For the reasons outlined in the Regulatory Evaluation section above, this proposed rule will not have a significant impact on a substantial number of small entities.

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: Chief Petty Officer Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203–468–4459, e-mail: christie.m.dixon@uscg.mil. 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 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 (adjusted for inflation) 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 cause 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 (NTAA) (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 023–01 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 will not individually or cumulatively have a significant effect on the human environment. This rule involves creation of a regulation that establishes a safety zone which is an action that may be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. An environmental analysis checklist will be 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 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. 1225 and 1231; 46 U.S.C. Chapter 701, 3306, 3703; 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. Add § 165.159 to read as follows:

§ 165.159 Safety Zone: New York Air Show at Jones Beach State Park, Wantagh, NY.

(a) *Location.* The following waters of the Atlantic Ocean off of Jones Beach State Park, Wantagh, NY are designated a safety zone: Beginning at a point on land located in Jones Beach State Park at approximate position 40°35′06″ N, 073°32′37″ W, then running east along the shoreline of Jones Beach State Park to approximate position 40°35′49″ N, 073°28′47″ W; then running south to a position in the Atlantic Ocean off of Jones Beach at approximate position 40°35′05″ N, 073°28′34″ W; then running west to approximate position 40°34′23″ N, 073°32′23″ W; then running north to the point of beginning at approximate position 40°35′06″ N, 073°32′37″ W. All coordinates are North American Datum 1983.

(b) *Definitions.* The following definition applies to this section: *Designated On-scene Patrol Personnel*, means any commissioned, warrant and petty officers of the U.S. Coast Guard operating Coast Guard vessels who have been authorized to act on the behalf of the Captain of the Port Long Island Sound.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Long Island Sound.

(2) All persons and vessels must comply with the Coast Guard Captain of the Port or designated on-scene patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels.

(3) Upon being hailed by siren, radio, flashing light or other means from a U.S. Coast Guard vessel or other vessel with on-scene patrol personnel aboard, the operator of the vessel shall proceed as directed.

(4) Persons and vessels desiring to enter the regulated area may request permission to enter from the designated on scene patrol personnel by contacting them on VHF–16 or by a request to the

Captain of the Port Long Island Sound via phone at (203) 468-4401.

(d) *Enforcement period.* This rule will be enforced May 24th, 2010 through May 30th, 2010 from 9:30 a.m. to 3:30 p.m. and annually thereafter on the Thursday through Sunday before Memorial Day in May. Notification of the specific dates and enforcement of the safety zone will be made via a Notice of Enforcement in the **Federal Register**, separate marine broadcasts and local notice to mariners.

Dated: March 26, 2010.

Daniel A. Ronan,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 2010-9127 Filed 4-20-10; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2010-0150-201009(b); FRL-9138-8]

Approval and Promulgation of Implementation Plans: Tennessee; Visibility Impairment Prevention for Federal Class I Areas; Removal of Federally Promulgated Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to remedy an inadvertent omission in the Tennessee State Implementation Plan (SIP) regarding visibility in 40 CFR 52.2234. EPA approved Tennessee's visibility rules addressing new source review on July 18, 1996, and a plan

addressing monitoring and reporting of visibility on July 2, 1997. EPA's approval of these rules neglected to remove the previous federally promulgated provisions from the Federal Implementation Plan contained in 40 CFR 52.2234. EPA is proposing to correct this omission in this rulemaking. This action is being taken pursuant to section 110 of the Clean Air Act. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments.

DATES: Written comments must be received on or before May 21, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2010-0150 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail:* benjamin.lynorae@epa.gov.

3. *Fax:* (404) 562-9019.

4. *Mail:* "EPA-R04-OAR-2010-0150," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of

operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT:

Nacosta C. Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Ms. Ward may be reached by phone at (404) 562-9140 or by electronic mail address at http://ward.nacosta@epa.gov.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: April 1, 2010.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

[FR Doc. 2010-8936 Filed 4-20-10; 8:45 am]

BILLING CODE 6560-50-P