

(3) A selection in which each party advises OAS of its order of preference by numbering each name on the panel and submitting the numbered list in writing to OAS. If the parties separately notify OAS of their preferred selections, OAS, upon receiving the preferred selection of the first party, will notify the other party that it has fourteen (14) days in which to submit its selections. Where both parties respond, the name that has the lowest combined number will be appointed. If the other party fails to respond, the first party's choice will be honored.

(d) Where the parties' collective bargaining agreement permits each party to separately notify OAS of its preferred selection, OAS will proceed with the selection process as follows. When the OAS receives the preferred selection from one party, it will notify the other party that it has fourteen (14) days in which to submit its selections. If that party fails to respond within the deadline, the first party's choice will be honored unless prohibited by the collective bargaining agreement. Where both parties respond, the name that has the lowest combined number will be appointed. If, within fourteen (14) days, a second panel is requested, and is permitted by the collective bargaining agreement, the requesting party must pay a fee for the second panel.

(e) The OAS will make a direct appointment of an arbitrator only upon joint request or as provided by paragraphs (c) (3) or (d) of this section.

(f) A direct appointment in no way signifies a determination of arbitrability or a ruling that an agreement to arbitrate exists. The resolution of disputes over these issues rests solely with the parties.

■ 6. Amend the Appendix to 29 CFR Part 1404 by removing "\$100" and adding "\$150" in its place.

Dated: May 26, 2010.

**Jeannette Walters-Marquez,**  
Attorney Advisor.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0158]

RIN 1625-AA00

#### Safety Zone; Wilson Bay, Jacksonville, NC

AGENCY: Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of Wilson Bay at Jacksonville, North Carolina for training purposes. The safety zone is necessary to provide for the safety of the general public and exercise participants from potential hazards associated with low flying helicopters and vessels participating in this multi agency exercise.

**DATES:** This rule is effective from 6 a.m. until 5 p.m. on June 9, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2010-0158 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0158 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail CWO4 Stephen Lyons, Waterways Management Division Chief, Coast Guard Sector North Carolina; telephone (252) 247-4525, e-mail [Stephen.W.Lyons2@uscg.mil](mailto:Stephen.W.Lyons2@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On April 2, 2010, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone: Wilson Bay, Jacksonville, NC in the **Federal Register** (75 FR 16703). We received no comments on the proposed rule. No public meeting was requested, and none was held.

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**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

##### Basis and Purpose

The Onslow County North Carolina Emergency Services will be conducting a multi agency exercise to test response capabilities of water rescue services in a mass casualty scenario on the waters of Wilson Bay, Onslow County, North Carolina from 6 a.m. to 5 p.m. June 9, 2010. The exercise is designed to train and test air and surface personnel in the judgmental decisionmaking process necessary to safely and effectively respond to a mass casualty incident. The exercise will involve helicopters, vessels, safety craft, divers, and rescue swimmers. This zone is necessary to establish a temporary restricted area in Wilson Bay to ensure the safety of participants within the exercise site.

##### Discussion of Comments and Changes

We received no comments on the proposed rule. No public meeting was requested, and none was held. The Coast Guard is implementing the rule as proposed, without change.

##### 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.

Although this regulation will restrict access to the area, the effect of this rule will not be significant because: (i) The safety zone will only be in effect from 6 a.m. to 5 p.m. on June 9, 2010, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) although the safety zone will apply to a section of Wilson Bay, it will not restrict vessel traffic in the federally marked channel.

##### 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 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 recreational and fishing vessels intending to transit the specified portion of Wilson Bay from 6 a.m. to 5 p.m. on June 9, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will only be in effect from 6 a.m. to 5 p.m. on June 9, 2010. Although the safety zone will apply to the section of Wilson Bay, it will not restrict vessel traffic in the federally marked channel. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This rule will 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 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.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 concluded this action is one of a category of actions that 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 establishes a temporary safety zone to protect the general public and exercise participants from potential hazards associated with low flying helicopters and vessels participating in this multi agency exercise. 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T05–0158 to read as follows:

**§ 165.T05–0158 Safety Zone; Wilson Bay, Jacksonville, NC.**

(a) *Definitions.* For the purposes of this section, Captain of the Port means the Commander, Sector North Carolina. *Representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: The safety zone is established for the navigable waters, from the surface to the seafloor, defined by enclosing an area south of a line drawn from New River Channel Daybeacon 61 (34°44'30" N/077°26'20" W) to the north tip of Ethridge Point (34°44'37" N/077°26'06" W) and extending ½ nautical mile south from the boundary line.

(c) *Regulations.* (1) The general regulations contained in § 165.23 of this part apply to the area described in paragraph (b) of this section.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or a designated representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (252) 247–4570 or by radio on VHF Marine Band Radio, channels 13 and 16.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 6 a.m. to 5 p.m. on June 9, 2010 unless cancelled earlier by the Captain of the Port.

Dated: May 17, 2010.

**A. Popiel,**

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

[FR Doc. 2010–13116 Filed 6–1–10; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket No. USCG–2010–0174]

RIN 1625–AA00

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is 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:** This rule is effective from 9 a.m. on June 3, 2010 through 6:30 p.m. on June 6, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2010–0174 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0174 in the “Keyword” box, and then clicking “Search.” This material is also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail CDR Joseph Snowden, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9508, e-mail [Joseph.H.Snowden@uscg.mil](mailto:Joseph.H.Snowden@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

On April 5, 2010, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Red Bull Air Race, Detroit River, Detroit, MI in the **Federal Register** (75 FR 17106). We received zero comments on the proposed rule. No public meeting was requested, and none was held.

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 due to the need to protect the public from the dangers associated with air racing.

**Basis and Purpose**

This temporary safety zone is necessary to ensure the safety of vessels and the public from hazards associated with an air race. The Captain of the Port Detroit has determined 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 recreational vessels, airplanes traveling at high speeds and performing aerial acrobatics, and large numbers of spectators in close proximity on the water could easily result in serious injuries or fatalities. Establishing a safety zone around the location of the race’s course will help ensure the safety of persons and property at these events and help minimize the associated risks.

**Discussion of the Rule**

The Coast Guard is establishing a temporary safety zone on the specified 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 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).

This rule will be enforced for approximately six hours each day of its effective period. Additionally, prior to the event, local sailing and yacht clubs will be provided with information by Coast Guard Station Belle Isle on what to expect during the event. Station Belle Isle will do this in order to minimize interruptions in the normal business practices of local sailing and yacht clubs. In the event this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port (COTP) 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 Detroit will suspend enforcement of the safety zone if the event for which the zone is established ends earlier than the expected time.