

Dated: July 1, 2003.

Vivien S. Crea,

*Rear Admiral, Coast Guard, Commander,
First Coast Guard District.*

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-03-245]

RIN 1625-AA00

Safety Zone; Selfridge ANGB Air Show, Harrison Twp., MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone during the Selfridge ANGB Air Show on July 24, 25, and 26, 2003. This safety zone is necessary to prevent waterway distractions during the Thunderbird aircraft aerial display, as required by the Federal Aviation Administration. The safety zone is intended to restrict vessel traffic in a portion of the Clinton River during specific periods on the affected dates. Specific closure periods will be announced via Broadcast Notice to Mariners on VHF Channel 16. Only authorized vessels are permitted to enter or remain within the safety zone.

DATES: This rule is effective from 4:30 p.m. on July 24, 2003, until 3 p.m. on July 26, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09-03-245 and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Detroit, 110 Mt. Elliott St., Detroit, MI 48207, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Brandon Sullivan, U. S. Coast Guard Marine Safety Office Detroit, at (313) 568-9558.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and 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**. The

permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. In addition, the Federal Aviation Administration requires certain safety precautions be in place prior to particular airshows, this rule ensures some of those precautions are in place.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of recreational watercraft and air show participants from the hazards associated with aerial displays as required by the Federal Aviation Administration. The combination of waterway distractions, and aerial displays, could easily result in serious injuries or fatalities. Establishing a temporary safety zone to control vessel movement through a portion of the Clinton River will help ensure the safety of persons and property at this event and help minimize the associated risk.

The temporary safety zone will encompass all waters approximately 4 miles West of the mouth of the Clinton River from a center point from the West at position 42°35.4' N, 082°50.3' W, and extending to the north and south shorelines of the Clinton River; from the East at center point position 42°35.8' N, 082°49.8' W to the north and south shorelines of the Clinton River. These coordinates are based upon North American Datum (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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 this rule under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security. We expect the economic impact of this proposed rule to be so

minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone, and therefore minor if any impacts to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant 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 would 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 a portion of the activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zone is only in effect from 4:30 p.m. to 5:30 p.m. on July 24, 2003, from 4 p.m. to 5 p.m. on July 25, 2003, and from 2 p.m. to 3 p.m. on July 26, 2003. It is expected that effects on vessel traffic will be minimal due to the short duration of the event on each day. The event does not interfere with the commercial shipping lanes. Before the effective period, we will issue maritime advisories widely available to users of the Clinton River by the Ninth Coast Guard District Local Notice to Mariners, and Marine Information Broadcasts. Facsimile broadcasts may also be made.

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 rule so that they can better evaluate its effects and participate in the rulemaking process. 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 Marine Safety Office Detroit (*see ADDRESSES*).

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).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not affect 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

The Coast Guard has 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 concern an environmental risk to health or risk to

safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph 32(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

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 final 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

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 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; 50 U.S.C. 191, 195; 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. A new temporary § 165.T09-245 is added to read as follows:

§ 165.T09-245 Safety Zone; Selfridge ANGB Air Show, Harrison Twp, MI.

(a) *Location.* The temporary safety zone will encompass all waters approximately 4 miles West of the mouth of the Clinton River from a center point from the West at position 42°35.4' N, 082°50.3' W, and extending to the north and south shorelines of the Clinton River; from the East at center point position 42°35.8' N, 082°49.8' W to the north and south shorelines of the Clinton River. These coordinates are based upon North American Datum (NAD 83).

(b) *Enforcement periods.* This rule is effective from 4:30 p.m. on July 24, 2003, until 3 p.m. on July 26, 2003. This section will be enforced from 4:30 p.m. to 5:30 p.m. on July 24, 2003; from 4 p.m. to 5 p.m. on July 25, 2003; and again from 2 p.m. to 3 p.m. on July 26, 2003. Enforcement periods will be announced via Broadcast Notice to Mariners on VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Dated: July 8, 2003.

S.K. Moon,

Lieutenant Commander, Coast Guard, Acting Captain of the Port Detroit.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05-03-008]

RIN 1625-AA00

Safety and Security Zones; Chesapeake Bay, Maryland and Tributaries

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing moving and fixed safety and security zones on the waters of the Chesapeake Bay and its tributaries for cruise ships and vessels carrying Certain Dangerous Cargo (CDC), Liquefied Natural Gas (LNG), or Liquefied Hazardous Gas (LHG) in the Captain of the Port (COTP) Baltimore zone. These