



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

Docket Number USCG-2017-0414

RIN 1625-AA00

Safety Zone; Huntington Beach Airshow, Huntington Beach, California

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Coast Guard proposes establishing a safety zone offshore of Huntington Beach, CA, in support of the Huntington Beach Airshow. This action is necessary to provide for the safety of life on these navigable waters in the area of the aerobatic zone during the performance. This proposed rulemaking would prohibit persons and vessels from entering into, transiting through, or remaining within the designated area unless specifically authorized by the Captain of the Port, Los Angeles - Long Beach, or her designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before August 21, 2017.

ADDRESSES: You may submit comments identified by docket number USCG-2017-0414 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed

rulemaking, call or email BMC James Morgia, Waterways Management, U.S. Coast Guard Sector Los Angeles – Long Beach; telephone (310) 521-3860, e-mail James.M.Morgia@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
LLNR	Light List Number
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The City of Huntington Beach and Air Support LLC notified the Coast Guard that it will be conducting an annual four-day Air Show in the vicinity of the Huntington Beach Pier in September and October. Hazards associated with navigation safety may arise due to multiple low flying aircrafts flight paths and stunt performances over the waters off Huntington Beach. The Captain of the Port Los Angeles-Long Beach has determined that potential hazards associated with the Air Show performance would be a safety concern for anyone in the vicinity of the Air Show aerobatic performance area.

The purpose of this rulemaking is to ensure the safety of persons or vessels that operate on and in the vicinity of the aerobatic performance. The Coast Guard proposes this rulemaking under the authority of 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone that would be enforced for a period of four days in September and October each year. The safety zone would encompass all navigable waters from the surface to the sea floor consisting of a line connecting the following coordinates:

33°38.378'N, 117°58.833'W; 33°37.972'N, 117°59.200'W; 33°39.177'N, 118°01.121'W; and 33°39.583'N, 118°00.753'W. All coordinates displayed are referenced by North American Datum of 1983, World Geodetic System, 1984. During the enforcement period, vessels would be prohibited from entering into, transiting through, or remaining within the designated area unless authorized by the Captain of the Port or her designated representative. General boating public would be notified prior to the enforcement of the safety zone via Broadcast Notice to Mariners. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

E.O.s 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771, directs agencies to control regulatory costs through a budgeting process.” This NPRM has not been designated a “significant regulatory action” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance, it is exempt from the requirements of E.O. 13771.

This regulatory action determination is based on the size, location, and duration of the safety zone. Vessel traffic would be able to safely transit around this safety zone, which would impact a small designated area of the Huntington Beach shoreline in the vicinity of the Huntington Beach Pier. The size of the zone is the minimum necessary to provide adequate protection for the waterways users, adjoining areas, and the public. Any hardships experienced

by persons or vessels are considered minimal compared to the interest in protecting the public.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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.

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. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT** section. 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.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this proposed rule does not have tribal implications under E.O. 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. 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 proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed 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(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone encompassing an area of the Air show aerobatic performance box over a 4 day period lasting 8 hours per day. This proposed rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of Commandant Instruction M16475.1D. A Record of Environmental Consideration supporting this determination and a Categorical Exclusion Determination are 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.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using

<http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.1109 to read as follows:

§ 165.1109 Safety Zone; Huntington Beach Airshow, Huntington Beach, California.

(a) Location. The following area is a safety zone: All navigable waters from the surface to the sea floor consisting of a line connecting the following coordinates: 33°38.378'N, 117°58.833'W; 33°37.972'N, 117°59.200'W; 33°39.177'N, 118°01.121'W; and 33°39.583'N, 118°00.753'W. All coordinates displayed are referenced by North American Datum of 1983,

World Geodetic System, 1984.

(b) Definitions. For the purposes of this section:

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Los Angeles-Long Beach(COTP) in the enforcement of the safety zone.

(c) Regulations.

(1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, hail Coast Guard Sector Los Angeles – Long Beach on VHF–FM Channel 16 or call at (310) 521-3801. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) Enforcement period. The safety zone will be enforced during airshow demonstrations for 4 days in September and October. The Coast Guard will provide notice regarding specific event dates and times, which will be published in the local notice to mariners at least 20 days prior to the event via Broadcast Notice to Mariners.

Dated: July 21, 2017.

Monica L. Rochester,

Captain, U.S. Coast Guard,

Acting Captain of the Port, Los Angeles – Long Beach.

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