



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0396]

RIN 1625-AA87

Security Zone, Lake Erie, Mentor (Mentor Headlands), Ohio

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary security zone for certain waters of Lake Erie off Mentor Headlands Beach State Park, Mentor, Ohio. This action is necessary to provide offshore security for motion picture production activity on the Mentor Headlands Beach from June 17 through June 18, and June 20 through June 21, 2024. This proposed rulemaking would prohibit persons and vessels from entering this security zone unless authorized by the Captain of the Port Sector Eastern Great Lakes or a 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 [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments identified by docket number USCG-2024-0396 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, contact Cody Mayrer with the U.S. Coast Guard Marine Safety Unit Cleveland’s Waterways Management Division; via telephone at 216-937-0111, or by email at D09-SMB-MSUCLEVELAND-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On February 27, 2024, S&K Productions notified the U.S. Coast Guard that it will be filming a motion picture on the Mentor Headlands Beach State Park in Mentor, Ohio from June 17 through June 18, and from June 20 through June 21, 2024, with rain dates of June 24 – 28, 2024. The Captain of the Port Sector Eastern Great Lakes (COTP) has determined that a security zone covering certain navigable waters of Lake Erie is needed to protect life and property during the S&K Productions’ filming of project “Genesis”.

The purpose of this rulemaking is to ensure offshore security of the film production personnel, sets, and equipment during production activity. The Coast Guard is proposing this rulemaking under its authority granted in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish the following security zone covering certain navigable waters of Lake Erie off the Mentor Headlands, Mentor, Ohio. The duration and location of this zone is intended to protect personnel, sets, and equipment during the S&K Productions’ filming project. The zone may require enforcement beyond the stated times if the filming runs into unforeseen delays. Rain dates have been designated for June 24-28, 2024. No vessel or person would be permitted to enter the security zone listed directly

below without permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

The boundary of the 500-yard offshore security zone from the Mentor Headlands Beach State Park forms a rectangle with the four corners of the polygon located in the following coordinates:

(1) 41° 45' 17" N, 081° 17' 41" W;

(2) 41° 45' 27" N, 081° 17' 57" W;

(3) 41° 46' 18" N, 081° 17' 02" W; and

(4) 41° 46' 01" N, 081° 16' 49" W (NAD 83).

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 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. This NPRM has not been designated a "significant regulatory action," under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on is based on size, location, and duration of the proposed rule. These security zone would restrict navigation through Lake Erie offshore of the Mentor Headlands Beach State Park for 13 hours each day, for a total of four days. 52 hours in all.

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 proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would 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 proposed 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 proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email 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 proposed rule would 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 Executive Order 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 Executive Order 13132.

Also, 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. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made

a preliminary determination 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 security zone offshore of the Mentor Headlands State Park Beach lasting 13 hours each day for a total of four days. Normally such actions are categorically excluded from further review under paragraph L60a of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. 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 call or email 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.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2024-0396 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it.

Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

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 is proposing 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: 46 U.S.C. 70034, 70051; 70124, 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T09-0396 to read as follows:

§ **165.T09-0396 Security Zone**; Mentor Headlands Beach, Mentor, Ohio.

(a) *Location.* The following area is a security zone: Mentor, OH. All U.S. waters of Lake Erie out to 500-yards from the shoreline at Mentor Headlands Beach State Park within a rectangle of which the four corners of the polygon are located in the following positions:

(1) 41° 45' 17" N, 081° 17' 41" W;

(2) 41° 45' 27" N, 081° 17' 57" W;

(3) 41° 46' 18" N, 081° 17' 02" W; and

(4) 41° 46' 01" N, 081° 16' 49" W (NAD 83).

(b) *Definitions*—(1) *Official Patrol Vessel* 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 Sector Eastern Great Lakes (COTP) in the enforcement of the regulations in this section.

(2) *Spectator* means all persons and vessels not registered with the production company as participants or official patrol vessels.

(3) *Rain date* refers to an alternate date and/or time in which the safety zone would be enforced in the event of inclement weather.

(c) *Regulations.* (1) The Coast Guard may patrol the security zone area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF-FM (156.8 MHz) by the call sign "PATCOM."

(2) All persons and vessels not registered with the production company or official

patrol vessels are considered spectators. The “official patrol vessels” consist of any Coast Guard, state or local law enforcement and production company provided vessels designated or assigned by the COTP Sector Eastern Great Lakes, to patrol the security zone.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer and will be operated at a no wake speed in a manner which will not endanger anyone directly involved with the production or any other craft.

(4) No spectator shall anchor, block, loiter, or impede the through transit of official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) The Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Any spectator vessel may anchor outside the regulated areas specified in this chapter, but may not anchor in, block, or loiter in a navigable channel.

(7) The Patrol Commander may terminate the filming or the operation of any vessel at any time it is deemed necessary for the protection of life and/or property.

(8) The Patrol Commander will terminate enforcement of the special regulations at the conclusion of the event.

(d) *Enforcement period.* This section will be enforced from 6:30 a.m. through 7:30 p.m. on June 17 through June 18, 2024, and from 2:30 p.m. through 3:30 a.m. on June 20 through June 21, 2024. Rain dates have been identified as June 24 – 28, 2024. Times of enforcement should these rain dates be necessary will be advertised through Local Notice to Mariners and Broadcast Notice to Mariners.

Dated: May 3, 2024.

S. M. Murray,
Commander, U.S. Coast Guard,
Acting Captain of the Port Eastern Great Lakes.

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