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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

USCG-2004-19416-6

[CGD01-04-056]

RIN 1625-AA97

SAFETY ZONE: Rhode Island Air National Guard Air Show,
Quonset Point State Airport, North Kingstown, Rhode Island

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters of Narragansett Bay adjacent to the Quonset Point State Airport in North Kingstown, Rhode Island during the annual Rhode Island Air National Guard Air Show. Vessels will be prohibited from entering this safety zone during aerial acrobatic demonstrations from 8 a.m. to 8 p.m. on June 18, 2004 and from 8 a.m. to 5 p.m. on June 19 and 20, 2004. This safety zone is needed to safeguard mariners from hazards associated with high-speed, high-performance, low-flying aircraft performing acrobatic demonstrations above the waters adjacent to the Quonset Point State Airport. Entry into this zone by any vessel is prohibited unless specifically authorized by the Captain of the Port, Providence, Rhode Island.

DATES: This rule is effective from 7 a.m. on June 18, 2004, to 5 p.m. on June 20, 2004.

ADDRESSES: Documents indicated in this preamble are available for inspection or copying at U.S. Coast Guard Marine Safety Office Providence, 20 Risho Avenue, E. Providence, RI between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Edward G. LeBlanc at Marine Safety Office Providence, (401) 435-2351.

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. The exact requirements for this safety zone were only recently determined. Publishing an NPRM and delaying the effective date would be contrary to the public interest since immediate action is needed to protect mariners and the marine public from navigation hazards associated with an obstruction in a marked and charted navigation channel.

Discussion of Rule

This regulation establishes a safety zone in the waters of Narragansett Bay adjacent to the Quonset Point State Airport in North Kingstown, Rhode Island during the annual Rhode Island Air National Guard Air Show. Vessels will be

prohibited from entering this safety zone during aerial acrobatic demonstrations from 8 a.m. to 8 p.m. on June 18, 2004 and from 8 a.m. to 5 p.m. on June 19 and 20, 2004. This safety zone is needed to safeguard mariners from hazards associated with low-flying, high-speed, and high-performance acrobatic aircraft performing above the waters adjacent to the Quonset Point State Airport. Entry into this zone by any vessel is prohibited unless specifically authorized by the Captain of the Port, Providence, Rhode Island.

This rule is effective from 7 a.m. on June 18, 2004 to 5 p.m. on June 20, 2004.

This action is intended to prohibit and/or control vessel traffic in the waters of Narragansett Bay adjacent to the Quonset Point State Park to provide for the protection of life and property of the maritime public.

The Captain of the Port anticipates negligible negative impact on vessel traffic from this temporary safety zone as it will only be in effect for certain hours during one weekend. Additionally, extensive advanced notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, local port safety committee meetings, area newspapers, and e-mail Marine Safety Information Bulletins. These advisories will afford large commercial traffic substantial advance notice to

schedule around the event. It has been determined that the enhanced safety to life and property provided by this rule greatly outweighs any potential negative impacts. Public notifications will be made during the entire period this safety zone is effective via local notice to mariners and marine information broadcasts.

Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary. The effect of this regulation will not be significant as it is expected to be in effect for a only a limited number of hours and for only one weekend. This rule will be entered into the local notice to mariners, and extensive maritime advisories will be broadcast.

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 rule will 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 and operators of vessels intending to transit in the vicinity of Quonset Point and Davisville Depot, Rhode Island. The safety zone will not have a significant impact on a substantial number of small entities for the following reasons: The safety zone is temporary, in effect for only a limited numbers of hours, and for only one weekend. The Safety Zone will be entered into the local notice to mariners, and extensive maritime advisories will be broadcast.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we

offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance, please call Mr. Edward G. Leblanc at (401) 435-2351. 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 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 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 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

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.

Environment

We have analyzed this rule under Commandant Instruction

M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g) of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under ADDRESSES.

List of Subjects

Harbors, Marine safety, Navigation (water), Reports and record keeping requirements, and Waterways. For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--AMENDED

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(g), 6.04-6, and 160.5; 49 CFR 1.46.

2. From 7 a.m. on June 18, 2004 to 5 p.m. on June 20, 2004., add temporary § 165.T01-___ to read as follows:

§ 165.T01- Safety Zone: Narragansett Bay, waters adjacent to Quonset Point State Park:

- (a) Location. The following area is a safety zone: All waters of Narragansett Bay, Rhode Island adjacent to Quonset Point State Park, bounded by a line drawn from the northeast corner to Pier 2, Davisville Depot, then southeasterly to buoy C"15" on the western boundary of Davisville Channel, then consecutively to buoys G"13", G"11", G"9", N"8", and R"6" along the western boundary of Davisville Channel, then southwesterly to buoy RGN, then northwesterly to a point tangent to the platform (pier) extending from Quonset Point. All vessels are restricted from entering this area.
- (b) Effective Date. This section is effective from 7 a.m. on June 18, 2004 to 5 p.m. on June 20, 2004.
- (c) Regulations.
- (1) The general regulations governing safety zones contained in 33 CFR 165.23 apply.
 - (2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port and the designated on-scene U.S. Coast Guard patrol personnel. These personnel include commissioned, warrant, and petty officers of

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

Dated: ___ June 2004

Mary E. Landry
Captain, U.S. Coast Guard
Captain of the Port
Marine Safety Office Providence