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Dated: February 26, 2010.

**Mark P. O'Malley,**

*Captain, U.S. Coast Guard, Captain of the Port Baltimore, MD.*

[FR Doc. 2010-7573 Filed 4-2-10; 8:45 am]

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## 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:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes 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:** Comments and related material must be received by the Coast Guard on or before May 5, 2010.

**ADDRESSES:** You may submit comments identified by docket number USCG-2010-0174 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail CDR Joseph Snowden, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568-9580, e-mail

[Joseph.H.Snowden@uscg.mil](mailto:Joseph.H.Snowden@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

##### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2010-0174), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail or hand delivery, but please use only one of these means. A comment submitted online via <http://www.regulations.gov> will be considered received by the Coast Guard when the comment is successfully transmitted; a comment submitted via fax, hand delivery, or mail, will be considered as having been received by the Coast Guard when the comment is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the "submit a comment" box, which will then become highlighted in blue. In the "Document Type" drop down menu select "Proposed Rule" and insert "USCG-2010-0174" in the "Keyword" box. Click "Search" then click on the balloon shape in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and we may change the rule based on your comments.

##### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2010-0174" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

##### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### Background 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 Proposed Rule

This proposed rule is intended to ensure safety of the public and vessels

during the setup, course familiarization, time trials and race in conjunction with the Red Bull Air Race. The safety zone will be in effect from 9 a.m. June 3, 2010 through 6:30 p.m. June 6, 2010, to accommodate for the air race and its associated set-up and removal. During that period, the safety zone will be enforced daily from 9 a.m. to 6:30 p.m., June 3rd through 6th, 2010. Specifically, on June 5th and 6th, 2010, the river closure will be enforced during any air race activities. Vessels seeking to transit the zone should contact the Captain of the Port's on-scene representative. The on-scene representative may permit vessels to transit the area when no air race activity is occurring. On June 5, 2010, the river closure will total no more than 5 hours between the hours of 9 a.m. to 6:30 p.m. On June 6, 2010, the river closure will total no more than 6 hours between the hours of 9 a.m. to 6:30 p.m. The Coast Guard expects to have additional information from the event organizer before publication of the final rule and may adjust the hours of enforcement for each day. The Coast Guard also expects the temporary final rule will be 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.

The temporary safety zone will encompass all navigable waters of the United States on 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).

The Captain of the Port will cause notice of enforcement of the safety zone established by this section to be made by all appropriate means to the affected segments of the public. Such means of notification will include, but is not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. Likewise, the Windsor Port Authority intends to restrict vessel movement on the Canadian side of the Detroit River. The exclusionary area on the Canadian side will be aligned with the east and west borders of the U.S. safety zone and will extend to the shoreline along Windsor, ON. The Captain of the Port will issue a broadcast Notice to Mariners notifying

the public when enforcement of the safety zone is terminated.

### Regulatory Analyses

We developed this proposed 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 proposed 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 proposed rule restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) zone is an area where the Coast Guard expects minimal adverse impact to mariners from the zone's activation; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 might be small entities: The owners or operators of vessels intending to transit or anchor in the portion of the Detroit River discussed above between 9 a.m. and 6 p.m. on June 3, through June 6, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this safety zone will be subject to enforcement for a short duration of approximately six hours each day of its effective period. Additionally, small entities such as passenger vessels have been involved in the planning stages of this event and have had opportunities to make

alternate arrangements with regards to mooring positions and business operations during the hours this safety zone will be in effect. Furthermore, 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 that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port 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 will suspend enforcement of the safety zone if the event for which the zone is established ends earlier than the expected time.

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 CDR Joseph Snowden, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9580, e-mail [Joseph.H.Snowden@uscg.mil](mailto:Joseph.H.Snowden@uscg.mil). 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.

### Collection of Information

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

#### Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

#### Energy Effects

We have analyzed this proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this proposed 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 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. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves the establishment of a temporary safety zone. Based on our preliminary determination, there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 figure 2–1, paragraph (34)(g) of the Instruction and neither an environmental assessment nor a environmental impact statement is required.

We seek any comments or information that may lead to the discovery of a

significant environmental impact from this proposed rule.

#### 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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 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. Add § 165.T09–0174 to read as follows:

#### § 165.T09–0174 Safety Zone; Red Bull Air Race, Detroit River, Detroit, MI.

(a) *Location.* The following area is a temporary safety zone: all 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).

(b) *Effective Period.* This regulation is effective from 9 a.m. June 3, 2010 through 6:30 p.m. June 6, 2010. The safety zone will be enforced daily from 9 a.m. to 6:30 p.m. on June 3, 2010 through June 6, 2010.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his

designated on scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port or his on-scene representative.

Dated: March 19, 2010.

**F.M. Midgett,**

*Captain, U.S. Coast Guard, Captain of the Port Detroit.*

[FR Doc. 2010-7689 Filed 4-1-10; 11:15 am]

**BILLING CODE 9110-04-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 36

[CC Docket No. 80-286; FCC 10-47]

### Jurisdictional Separations and Referral to the Federal-State Joint Board

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** Jurisdictional separations is the process by which incumbent local exchange carriers (incumbent LECs) apportion regulated costs between the intrastate and interstate jurisdictions. In this document, the Commission seeks comment on extending until June 30, 2011 the current freeze of part 36 category relationships and jurisdictional cost allocation factors used in jurisdictional separations, which freeze would otherwise expire on June 30, 2010. Extending the freeze would allow the Commission to provide stability for, and avoid imposing undue burdens on, carriers that must comply with the Commission's separations rules while the Commission considers issues relating to comprehensive reform of the jurisdictional separations process.

**DATES:** Comments on extending the freeze of part 36 category relationships and jurisdictional cost allocation factors are due on or before April 19, 2010. Reply comments on extending the freeze of part 36 category relationships and jurisdictional cost allocation factors are due on or before April 26, 2010.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 80-286, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *E-mail:* [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response. Include the docket number in the subject line of the message.

- *Mail:* Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

#### FOR FURTHER INFORMATION CONTACT:

Daniel Ball, Attorney Advisor, at 202-418-1577, Pricing Policy Division, Wireline Competition Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket No. 80-286, FCC 10-47, released on March 29, 2010. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

#### Background

1. Jurisdictional separations is the process by which incumbent LECs apportion regulated costs between the intrastate and interstate jurisdictions. The NPRM proposes extending the current freeze of part 36 category relationships and jurisdictional cost allocation factors used in jurisdictional separations, which freeze would otherwise expire on June 30, 2010, until June 30, 2011. Extending the freeze will allow the Commission to provide stability for, and avoid imposing undue burdens on, carriers that must comply with the Commission's separations rules while the Commission considers issues relating to comprehensive separations reform.

2. The 2001 Separations Freeze Order, 66 FR 33202, June 21, 2001, froze all part 36 category relationships and allocation factors for price cap carriers and all allocation factors for rate-of-return carriers. Rate-of-return carriers had the option to freeze their category relationships at the outset of the freeze. The freeze was originally established

July 1, 2001 for a period of five years, or until the Commission completed separations reform, whichever occurred first. The 2006 Separations Freeze Extension Order, 71 FR 29843, May 24, 2006, extended the freeze for three years or until the Commission completed separations reform, whichever occurred first, and the 2009 Separations Freeze Extension Order, 74 FR 23955, May 22, 2009, extended the freeze until June 30, 2010.

3. In this NPRM the Commission seeks comment on extending the freeze for one year, until June 30, 2011. The proposed extension would allow the Commission to continue to work with the Federal-State Joint Board on Separations to achieve comprehensive separations reform. Pending comprehensive reform, the Commission tentatively concludes that the existing freeze should be extended on an interim basis to avoid the imposition of undue administrative burdens on incumbent LECs. The Commission asks commenters to consider how costly and burdensome an extension of the freeze, or a reversion to the pre-freeze part 36 rules, would be for small incumbent LECs, and whether an extension would disproportionately affect specific types of carriers or ratepayers. Incumbent LECs have not been required to utilize the programs and expertise necessary to prepare separations information since the inception of the freeze almost nine years ago. If the Commission does not extend the separations freeze, and instead allows the earlier separations rules to return to force, incumbent LECs would be required to reinstitute their separations processes. Given the imminent expiration of the current separations freeze, it is unlikely that incumbent LECs would have sufficient time to reinstitute the separations processes necessary to comply with the earlier separations rules.

4. The extended freeze would be implemented as described in the 2001 Separations Freeze Order. Specifically, price-cap carriers would use the same relationships between categories of investment and expenses within part 32 accounts and the same jurisdictional allocation factors that have been in place since the inception of the current freeze on July 1, 2001. Rate-of-return carriers would use the same frozen jurisdictional allocation factors, and would use the same frozen category relationships if they had opted previously to freeze those as well.

#### Comment Filing Procedures

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file