

## 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.

## 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this 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 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves establishing a safety zone around a fireworks display and is expected to have no impact on the water or environment. This zone is designed to protect mariners and spectators from the hazards associated with aerial fireworks displays. An environmental analysis checklist and a categorical exclusion determination are available in

the docket where indicated under **ADDRESSES**.

## 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 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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.T05-0477 to read as follows:

#### § 165.T05-0477 Safety Zone; Fourth of July Fireworks Event, Cape Charles City Harbor, Cape Charles, VA.

(a) *Regulated Area.* The following area is a safety zone: specified waters of the Captain of the Port Sector Hampton Roads zone, as defined in 33 CFR 3.25-10, in the vicinity of Cape Charles City Harbor in Cape Charles, VA and within 420 feet of position 37°15'59" N/ 076°01'12" W (NAD 1983).

(b) *Definition:* For the purposes of this part, Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulations:* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone number (757) 638-6641.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF-FM marine band

radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) Enforcement Period: This regulation will be in effect from 8 p.m. to 10 p.m. on July 4, 2010.

Dated: June 3, 2010.

**M.S. Ogle,**

*Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.*

[FR Doc. 2010-14469 Filed 6-15-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0470]

RIN 1625-AA00

#### Safety Zone; Grand Marais Splash-In, West Bay, Lake Superior, Grand Marais, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in West Bay, on Lake Superior, Grand Marais, MI. This safety zone is intended to restrict vessel traffic from a portion of West Bay during the Grand Marais Splash-In Sea Plane Competition.

**DATES:** This rule is effective from 2 p.m. to 5 p.m. on June 19, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0470 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0470 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail BMC Gregory Ford, Marine Event Coordinator, U.S. Coast Guard Sector Sault Sainte Marie; telephone 906-635-3222, e-mail [Gregory.C.Ford@uscg.mil](mailto:Gregory.C.Ford@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the permit application was not received in time to publish an NPRM followed by a final rule before the effective date and immediate action is necessary to prevent possible loss of life or property due to the potential hazards associated with the sea plane competition.

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**. 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.

### Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with sea planes taking-off, flying and landing in the area. The Captain of the Port Sault Sainte Marie has determined an aircraft competition with sea planes flying and landing in close proximity to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, alcohol use, and debris falling from the sky into the water presents a significant risk of serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the competition and landing area will help ensure the safety of persons and property at these events and help minimize the associated risks.

### Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the performance of flight maneuvers and water landings in conjunction with the Grand Marias Splash In. This event will occur between 2 p.m. and 5 p.m. on June 19, 2010.

The safety zone for the Grand Marais Splash-In will encompass the southern

portion of West Bay. The zone will be bound to the north by a line beginning 100 feet south-southeast of the Lake Street Boat Launch, extending 5280 feet to the east on a true bearing of 080 degrees. The eastern boundary will then be formed by a line drawn to the shoreline on a true bearing of 170 degrees. The western and southern boundaries of the zone will be bound by the shoreline of West Bay. The zone is bound by the coordinates 46°40'22.98" N/ 085°59'00.78" W, 46°40'32.04" N 085°57'46.14" W and 46°40'19.68" N 085°57'43.08" W [DATUM: NAD 83], with the West Bay shoreline forming the South and West boundaries of the zone.

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

### Regulatory Analyses

We developed this 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 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.

This determination is based on the minimal time of three hours that vessels will be restricted from the zone. The Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

### 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 or anchor in a portion of Lake Superior off Grand Marais, Michigan between 2 p.m. and 5 p.m. on June 19, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for three hours on one day, and the majority of marinas, piers and wharfs in the area are located on the northern shoreline of West Bay. The Safety Zone will allow vessels to move freely between these areas and Lake Superior. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Sault Sainte Marie 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.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### 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 (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 rule elsewhere in this preamble.

#### Taking of Private Property

This rule will 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 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.

#### 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this 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 concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction because this rule involves the establishment of a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### 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 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 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 new temporary § 165.T09–0470 as follows:

#### **§ 165.T09–0470 Safety Zone; Grand Marais Splash-In, West Bay, Lake Superior, Grand Marais, MI.**

(a) *Location.* The following area is a temporary safety zone: all U.S. navigable waters of West Bay, Lake Superior, Grand Marais, MI bound to the north by a line beginning 100 feet south-southeast of the Lake Street Boat Launch, extending 5280 feet to the east on a true bearing of 080 degrees. The eastern boundary will then be formed by a line drawn to the shoreline on a true bearing of 170 degrees. The western and southern boundaries of the zone will be bound by the shoreline of West Bay. The zone is bound by the coordinates 46°40′22.98″ N 085°59′00.78″ W, 46°40′32.04″ N 085°57′46.14″ W, and 46°40′19.68″ N 085°57′43.08″ W [DATUM: NAD 83], with the West Bay shoreline forming the South and West boundaries of the zone.

(b) *Effective period.* This regulation will be enforced from 2 p.m. to 5 p.m. on June 19, 2010.

(1) The Captain of the Port, Sector Sault Sainte Marie may suspend at any time the enforcement of any safety zone established under this section.

(2) The Captain of the Port, Sector Sault Sainte Marie, will notify the public of the enforcement and suspension of enforcement of a safety zone established by this section via any means that will provide as much notice as possible to the public. These means might include some or all of those listed in 33 CFR 165.7(a). The primary method of notification, however, will be through Broadcast Notice to Mariners and Local Notice to Mariners.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within an enforced safety zone established by this section is prohibited unless authorized by the Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative.

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

(3) The “on-scene representative” of the Captain of the Port, Sector Sault Sainte Marie, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain

of the Port, Sector Sault Sainte Marie, to act on his behalf. The on-scene representative of the Captain of the Port, Sector Sault Sainte Marie, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf.

(4) Vessel operators desiring to enter or operate within an enforced safety zone shall contact the Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative to obtain permission to do so. The Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative may be contacted via VHF Channel 16. 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, Sector Sault Sainte Marie, or his on-scene representative.

Dated: June 2, 2010.

**M.J. Huebschman,**

*Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.*

[FR Doc. 2010-14486 Filed 6-15-10; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 39

RIN 2900-AM96

#### State Cemetery Grants

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is issuing this final rule to amend regulations governing grants to States for the establishment, expansion, and improvement of State veterans cemeteries (Establishment, Expansion, and Improvement Projects). We are implementing through regulation new statutory authority to provide grants for the operation and maintenance of State veterans cemeteries (Operation and Maintenance Projects), as authorized by the Dr. James Allen Veteran Vision Equity Act of 2007 (the Act), enacted on December 26, 2007. The Act expands VA authority to provide grants to States for operating and maintaining State veterans cemeteries and limits to \$5 million the aggregate amount of such grants VA may award in any fiscal year. VA is amending its regulations to outline the process, the criteria, and the priorities relating to the award of these Operation and Maintenance Project grants. This final rule will also amend our regulations by changing the arrangement and numbering of the current regulatory sections,

incorporating some non-substantive changes to the regulations, and removing specific forms from this part that are available at [http://www.cem.va.gov/cem/scg\\_grants.asp](http://www.cem.va.gov/cem/scg_grants.asp).

**DATES:** *Effective Date:* July 16, 2010. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of July 16, 2010.

*Applicability Date:* This final rule shall apply to all applications for State cemetery grant funds that are received by VA on or after the effective date of this final rule, and to all applications for State cemetery grant funds that were pending with VA on that date.

**FOR FURTHER INFORMATION CONTACT:**

Frank Salvias, Director of State Cemetery Grants Service, National Cemetery Administration (NCA), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington DC 20420. Telephone: (202) 461-8947 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On December 31, 2009, VA published a proposed rule in the **Federal Register** (74 FR 69304) to amend regulations in 38 CFR part 39 governing grants to States for Establishment, Expansion, and Improvement Projects and to implement through regulation new statutory authority to provide grants for Operation and Maintenance Projects, as authorized by the Act (Pub. L. 110-157), enacted on December 26, 2007. VA provided a 60-day comment period for the proposed rule that ended March 1, 2010. We received no comments. Based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposed rule as a final rule with the following changes.

We made a non-substantive change to proposed §§ 39.35 and 39.85, so that those regulations refer to a Memorandum of Agreement, rather than a Notification of Award, to be consistent with the title of the corresponding VA Form 40-0895-11.

Also, although we proposed to update references to the architectural design codes that apply to grant applicants, we decided to update those references in a separate rulemaking. Therefore, we removed the references to the updated editions of the various codes in proposed § 39.63 and replaced them with references to the 2002 and 2003 editions of the codes, as appropriate, that were previously incorporated by reference into 38 CFR part 39. Similarly, we removed the references to the International Mechanical Code and International Plumbing Code in proposed § 39.63 and replaced them with references to the Uniform

Mechanical Code and Uniform Plumbing Code, respectively, which were previously incorporated by reference into 38 CFR part 39. We did the same with an address from which copies of those two codes can be obtained. Therefore, the editions of codes that were previously incorporated by reference into 38 CFR part 39 will continue to be applicable to grant applicants until the references to the codes are updated or changed through rulemaking.

#### Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined, and it has been determined not to be a significant regulatory action under the Executive Order.

#### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule will directly affect only State government entities and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.