

### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C.804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions, or Federal, State or local governmental agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

### *Unfunded Mandates*

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

### **List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 5, 2003.

**Brent Wahlquist,**

*Regional Director, Appalachian Regional Coordinating Center.*

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 165**

[CGD09-03-233]

RIN 1625-AA00

### **Safety Zone; Head of the Cuyahoga Regatta, Cleveland, OH**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a safety zone for the annual Head of the Cuyahoga Regatta in Cleveland, Ohio. This safety zone is necessary to control vessel traffic within the immediate location of the regatta and to ensure the safety of life and property during the event. This safety zone is intended to restrict vessel traffic from a portion of the Cuyahoga River.

**DATES:** Comments and related material must reach the Coast Guard on or before August 15, 2003.

**ADDRESSES:** You may mail comments and related material to Coast Guard Marine Safety Office Cleveland (CGD09-03-233), 1055 East Ninth Street, Cleveland, Ohio 44114. Marine Safety Office Cleveland maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and available for inspection or copying at Coast Guard MSO Cleveland between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Allen Turner, U.S. Coast Guard Marine Safety Office Cleveland, at (216) 937-0128.

### **SUPPLEMENTARY INFORMATION:**

#### **Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09-03-233), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please include a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

#### **Public Meeting**

We do not plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard MSO Cleveland at the address under **ADDRESSES** explaining why one 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**

The Head of the Cuyahoga Regatta will take place annually on the Cuyahoga River. A permanent safety zone will be established on the Cuyahoga River to protect competitors and course markings from recreational and commercial vessels, and to prevent interference with the competition. The safety zone will only be activated during the regatta.

### **Discussion of Proposed Rule**

The safety zone will be activated annually on the third Saturday of September from 8 a.m. until 5 p.m. The safety zone will encompass the Cuyahoga River from Collision Bend down river to the mouth of the confluence with the Old River. In order to minimize the impact on commercial waterway users, commercial vessels will be allowed to transit the safety zone between the hours of 11 a.m. and 1 p.m. Recreational vessels will be allowed to transit the safety zone during the regatta with an escort by the event sponsor or the Coast Guard.

### **Regulatory Evaluation**

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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 this rule under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under of the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the short amount of time that vessels will be restricted from the zones, and the actual location of the safety zones within the waterways.

### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant 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 proposed rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of the activated safety zone.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed zone is only in effect for a few hours on