

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket No. USCG-2010-1152]

RIN 1625-AA00

Safety Zones; Charleston Race Week, Charleston Harbor, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones for the Charleston Race Week in Charleston, South Carolina. The races will take place on April 14, 2011 through April 17, 2011. The temporary safety zones are necessary for the safety of race participants, participant vessels, and the general public during the races. **DATES:** This rule is effective from April 14, 2011 through April 17, 2011, and will be enforced daily from 9 a.m. until 5 p.m. on April 14, 2011 through April 17, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-1152 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-1152 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 final rule, call or e-mail Lieutenant Julie Blanchfield, Sector Charleston Waterways Management Division, Coast Guard; telephone 843-740-3184, e-mail Julie.E.Blanchfield@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 Coast Guard did not receive notice of the Charleston Race Week with sufficient time to publish an NPRM and to receive public comments prior to the event. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize the potential danger to race participants, participant vessels, and the general public.

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** for the reasons enumerated above. In addition, there is an immediate need to protect waterway users from hazards associated with these races.

Background and Purpose

Charleston Ocean Racing Association, in partnership with the South Carolina Maritime Foundation, will be hosting three sailboat races commencing on April 14, 2011 and concluding on April 17, 2011 in the Charleston Harbor, Charleston, South Carolina. The temporary safety zones are necessary to protect race participants, participant vessels, and the general public from the hazards associated with the sailboat races.

Discussion of Rule

The three temporary safety zones encompass certain navigable waters of the Charleston Harbor, Charleston, South Carolina. The safety zones will be enforced daily from 9 a.m. until 5 p.m. on April 14, 2011 through April 17, 2011. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the safety zones unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within any of the safety zones may contact the Captain of the Port Charleston via telephone at 843-740-7050, or a designated representative via VHF radio on channel 16, to seek authorization. The Coast Guard will provide notice of the safety zones via broadcast notice to mariners and marine safety information bulletins. On-scene notice will also be provided by the Coast Guard or local law enforcement.

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.

The economic impact of this rule is not significant for the following reasons: (1) The rule will be in effect for only four days; (2) the safety zones will be enforced for only eight hours each day; (3) although persons and vessels will not be able to enter, transit through, anchor in, or remain within any of the safety zones without authorization from the Captain of the Port Charleston or a designated representative, they will be able to operate in the surrounding area during the enforcement periods; (4) persons and vessels may still enter, transit through, anchor in, or remain within the safety zones if authorized by the Captain of the Port Charleston or a designated representative; and (5) advance notification of the safety zones will be made to the local maritime community via broadcast notice to mariners and marine safety information bulletins.

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 may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within the waters of the Charleston Harbor encompassed within any of the three safety zones from 9 a.m. on April 14, 2011 through 5 p.m. on April 17, 2011.

For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

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 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 effect 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 M16475.1D, 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 which 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 three temporary safety zones that will be enforced for eight hours each day for four days. 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–1152 to read as follows:

§ 165.T07–1152 Safety Zones; Charleston Race Week, Charleston Harbor, Charleston, SC.

(a) *Regulated areas.* The following regulated areas are safety zones. All coordinates are North American Datum 1983.

(1) *Safety Zone #1.* All waters encompassed within an 800 yard radius of position 32°46′00″ N, 79°54′56″ W.

(2) *Safety Zone #2.* All waters encompassed within a 900 yard radius of position 32°45′49″ N, 79°54′08″ W.

(3) *Safety Zone #3*. All waters encompassed within a 900 yard radius of position 32°45'46" N, 79°53'13" W.

(b) *Definition*. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations*.

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within any of the regulated areas may contact the Captain of the Port Charleston via telephone at 843-740-7050, or a designated representative via VHF radio on channel 16, to seek authorization. If authorization to enter, transit through, anchor in, or remain within any of the regulated areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area via broadcast notice to mariners, marine safety information bulletins, and by on-scene designated representatives.

(d) *Effective Date and Enforcement Periods*. This rule is effective from April 14, 2011 through April 17, 2011. The regulated areas will be enforced daily from 9 a.m. until 5 p.m. on April 14, 2011 through April 17, 2011.

Dated: March 18, 2011.

Michael F. White Jr.,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-0140]

RIN 1625-AA00

Safety Zone; Texas International Boat Show Power Boat Races; Corpus Christi Marina, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Corpus Christi, Texas for North American Tri-Hull Championship scheduled to take place during the Texas International Boat Show. The North American Tri-Hull Championship will consist of a series of power boat races for approximately 8-12 vessels that are 18-foot long. The temporary safety zone is necessary for the safety of race participants, spectators and the general public.

DATES: The rule is effective from 7 a.m. April 8, 2011 until 8 p.m. April 10, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0140 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0140 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 LT Wes Geyer, Sector Corpus Christi Waterways Management Division, Coast Guard; telephone 361-888-3162, e-mail Wes.M.Geyer@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 dates of the event were changed to an earlier date to eliminate the conflict with a sailing regatta that would have presented a safety issue for participants in both events.

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**. Due to the need for immediate action the restriction of vessel traffic and spectator craft is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting participants and spectators from the known dangers associated with power boat races.

Basis and Purpose

This safety zone is necessary to ensure the safety of the public and boating traffic in the Corpus Christi Marina area during this event. This safety zone is intended to restrict vessel traffic from a portion of the Corpus Christi Marina for short durations of time. The size of the zone was determined by natural barriers on all four sides of the race course and local knowledge about wind, waves, and currents in this particular area.

Discussion of Rule

This safety zone will encompass all waters of the Corpus Christi Marina contained between the People's Street T-Head on the west, the breakwater on the east, the southern boundary running from the southernmost tip of the People's Street T-Head (approx 27N 47'43.4", -97W 23'16") along a line running due east to the breakwater (approx 27N 47'43.8", -97W 23'5.2"), and the northern boundary line running from the northern most tip of the secondary breakwater (approx 27N 47'57", -97W 23'21.7") and the end of the primary breakwater (approx 27N 47'59.1", -97 23'9.5").

Potential users of the waters contained in the temporary safety zone will be notified by VHF-FM radio from the Patrol Commander and also from a designated representative of the Captain of the Port over the race committee's loud hailer speaker system when the