

route. The Coast Guard will inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge, so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35, the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 29, 2017.

**Eric A. Washburn,**

*Bridge Administrator, Eighth Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2017-0023]

RIN 1625-AA00

#### Safety Zone; Charleston Race Week, Charleston Harbor, Charleston, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the waters of the Charleston Harbor in Charleston, SC, during the Charleston Race Week from April 20, 2017, through April 23, 2017. Charleston Race Week is a series of sail boat races in the Charleston Harbor. The safety zone is necessary to ensure the safety of participants, spectators, and the general public during the event. This regulation prohibits persons and vessels from entering, transiting through, anchoring in, or remaining within the safety zones unless authorized by the Captain of the Port Charleston or a designated representative.

**DATES:** This rule is effective from April 20, 2017, through April 23, 2017 and will be enforced from 9 a.m. to 5 p.m. on those days.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0023 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule call or email Lieutenant Commander John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740-3184, email [John.Z.Downing@uscg.mil](mailto:John.Z.Downing@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
Pub. L. Public Law  
§ Section  
U.S.C. United States Code  
COTP Captain of the Port

##### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 insufficient time remains to publish an NPRM and to receive public comments, as the Charleston Race Week event will occur before the rulemaking process would be completed. Because of the dangers posed by the proximity of the races to the navigable waters of the Charleston Harbor, the safety zone is necessary to provide for the safety of event participants, spectators, and vessels transiting the event area. For those reasons, it would be impracticable and contrary to the public interest to publish an NPRM.

For the reason discussed above, 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**.

##### III. Legal Authority and Need for Rule

The legal basis for this rule is the Coast Guard's authority to establish regulated safety zones and other limited access areas is 33 U.S.C. 1231. The purpose of the rule is to ensure the safety of the event participants, the general public, vessels and the navigable waters during Charleston Race Week.

##### IV. Discussion of the Rule

This rule establishes a safety zone on the waters of the Charleston Harbor in Charleston, South Carolina during Charleston Race Week. The races are scheduled to take place from 9 a.m. to 5 p.m. on April 20, 2017, through April 23, 2017. Approximately 250 sailboats are anticipated to participate in the races, and approximately 30 spectator vessels are expected to attend the event. Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port Charleston by telephone at (843) 740-7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone 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. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

##### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

###### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget. This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and

Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) Although persons and vessels may not enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the enforcement period; and (2) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on “small entities” comprised of small businesses and 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### E. 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. 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 (42 U.S.C. 4321–4370f), and have determined that 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 involves a safety

zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the waters of the Charleston Harbor. This rule is categorically excluded from further review under paragraph 34(g) of figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 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. 1231; 50 U.S.C. 191, 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; and Department of Homeland Security Delegation No. 0170.

■ 2. Add a temporary § 165.35T07–0023 to read as follows:

#### § 165.T07–0023 Safety Zone; Charleston Race Week, Charleston Harbor, Charleston, SC.

*Location.* The rule consists of the following four race areas.

1. *Race Area #1.* All waters encompassed within a 700 yard radius of position 32°46′10″ N., 79°55′15″ W.

2. *Race Area #2.* All waters encompassed within a 700 yard radius of position 32°46′02″ N., 79°54′15″ W.

3. *Race Area #3.* All waters encompassed within a 700 yard radius of position 32°45′55″ N., 79°53′39″ W.

4. *Race Area #4.* All waters encompassed within a 600 yard radius of position 32°47′50″ N., 79°56′80″ 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 area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843-740-7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, or remain within the regulated area 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 by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement Period.* This rule will be enforced daily from 9 a.m. until 5 p.m. from April 20 through April 23, 2017.

Dated: March 29, 2017

**G.L. Tomasulo,**

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

[FR Doc. 2017-06529 Filed 3-31-17; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2017-0172]

RIN 1625-AA00

### Safety Zone; Pacific Ocean, Kilauea Lava Flow Ocean Entry on Southeast Side of Island of Hawaii, HI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the navigable waters surrounding the entry of lava from Kilauea volcano into

the Pacific Ocean on the southeast side of the Island of Hawaii, HI. The safety zone will encompass all waters extending 300 meters (984 feet) in all directions around all entry points of lava flow into the ocean. The entry points of the lava vary, and the safety zone will vary accordingly. The safety zone is needed to protect persons and vessels from the potential hazards associated with molten lava entering the ocean resulting in explosions of large chunks of hot rock and debris upon impact, collapses of the sea cliff into the ocean, hot lava arching out and falling into the ocean, and the release of toxic gases. Entry of persons or vessels into this safety zone is prohibited unless specifically authorized by the Captain of the Port (COTP) Honolulu or his designated representative.

**DATES:** This rule is effective without actual notice from April 3, 2017, through 8 a.m. (HST) on September 28, 2017. For purposes of enforcement, actual notice will be used from 8 a.m. (HST) on March 28, 2017, through April 3, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-USCG-2017-0172 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or email Lieutenant Commander Nicolas Jarboe, Waterways Management Division, U.S. Coast Guard; telephone 808-541-4359, email [D14-SMB-SecHono-MarineEventPermits@uscg.mil](mailto:D14-SMB-SecHono-MarineEventPermits@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

#### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
TFR Temporary Federal Regulation  
U.S.C. United States Code

#### II. Background Information and Regulatory History

Lava has been entering the ocean at Kamokuna on Kilauea Volcano's south coast since July of 2016. As with all ocean entries during this long-lived Kilauea eruption, hazards to people nearby on land and sea include: A plume of corrosive seawater laden with hydrochloric acid and fine volcanic particles that can irritate the skin, eyes, and lungs; explosions of debris and scalding water as hot rock interacts with the ocean; sudden collapse of lava

deltas (new land formed as lava accumulates above sea level extending out from the base of the existing sea cliff); waves associated with explosions, collapses; plumes of hot water. For more information, please see: <https://pubs.usgs.gov/fs/2000/fs152-00/>.

On New Year's Eve 2016, a large portion of the new lava delta collapsed into the ocean producing waves and explosions of debris. Following this collapse, portions of the adjacent sea cliff continued to collapse into the ocean producing localized ocean waves and showers of debris. As of late March 2017, a new delta has begun to form at the Kamokuna ocean entry. Additionally, cracks parallel to the sea cliff in the surrounding area persist, indicating further collapses with very little or no warning are possible.

Based on a review of nearly 30 years of delta collapse and ejecta distance observations in the Hawaii Volcano Observatory records, a radius of 300 meters was determined as a reasonable minimum high hazard zone around a point of ocean entry.

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 those procedures is "impractical, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard finds it impractical to issue an NPRM with respect to this rule because of the emergency situation of potential hazards associated with molten lava entering the ocean resulting in explosions of large chunks of hot rock and debris upon impact, collapses of the sea cliff into the ocean, hot lava arching out and falling into the ocean, and the release of toxic gases that poses a danger to vessel traffic and the public. Publishing an NPRM and delaying the effective date would be contrary to the safety zone's intended objectives, including but not limited to protection of the public and mitigation of danger to nearby vessels from the hazards of flow entry into the ocean, enhancing public safety. Publishing a NPRM and delaying the effective date would also be contrary to the public interest since the occasion would occur before a notice-and-comment rulemaking could be completed, thereby jeopardizing the safety of the public.