

(j) Until DoD determines that the claimant is, or is expected to be, medically rehabilitated and able to resume employment;

(ii) In cases of permanent incapacitation, until expiration of the claimant's work-life expectancy; or

(iii) In cases of death, until the expiration of the claimant's work-life expectancy, after deducting for the claimant's personal consumption.

(iv) Future lost earnings must be substantiated by appropriate documentation and claimants have an obligation to mitigate damages.

(v) In addition, loss of retirement benefits is compensable and similarly discounted after appropriate deductions. Estimates for future lost earnings and retirement benefits must be discounted to present value.

\* \* \* \* \*

(d) *Disability discrimination.* An injury or condition does not result in lost earnings for purposes of, and is not compensable under, this part if the lost earnings stem from disability discrimination, which may be settled and paid under other provisions of law.

■ 4. Amend § 45.10 by revising paragraphs (a) through (c) to read as follows:

**§ 45.10 Calculation of damages: non-economic damages.**

(a) *In general.* Non-economic damages are one component of a potential damages award. The claimant has the burden of proof on the amount of non-economic damages by a preponderance of evidence. DoD may request an interview of or statement from the claimant or other person with primary knowledge of the claimant. DoD may also require medical statements documenting the claimant's condition and, in cases of disfigurement, photographs documenting the claimant's condition.

(b) *Elements of non-economic damages.* Non-economic damages include pain and suffering; physical discomfort; mental and emotional trauma or distress; loss of enjoyment of life; physical disfigurement; and the inability to perform daily activities that one performed prior to injury, such as recreational activities. Such damages are compensable as part of non-economic damages.

(c) *Cap on non-economic damages.* In any claim under this part, total non-economic damages may not exceed a cap amount published by DoD via a **Federal Register** notice. DoD will periodically publish updates to this cap amount via **Federal Register** notices, consistent with changes in prevailing

amounts in the majority of the States with non-economic damages caps.

\* \* \* \* \*

■ 5. Amend § 45.11 by:

■ a. Revising paragraph (a);

■ b. Redesignating paragraphs (c) and (d) as paragraphs (d) and (c), respectively;

■ c. Revising the first sentence in the newly redesignated paragraph (c);

■ d. Adding a sentence to the end of the newly redesignated paragraph (d);

■ e. Revising paragraph (e); and

■ f. Removing paragraphs (f) and (g).

The revisions and addition read as follows:

**§ 45.11 Calculation of damages: offsets for DoD and VA Government compensation.**

(a) *In general.* Total potential economic damages calculated under this part are reduced by offsetting most of the compensation otherwise provided or expected to be provided by DoD or VA for the same harm that is the subject of the medical malpractice claim. DoD has the burden to establish the applicability and amount of any offsets.

\* \* \* \* \*

(c) \* \* \* In determining offsets under this section from economic damages, DoD will use the present value of future payments and benefits. \* \* \*

(d) \* \* \* Claimants must provide information not available to DoD, but requested by DoD, for the purpose of determining offsets.

(e) *Benefits and payments that may be considered as potential offsets.* The general rule is that potential damages calculated under this part may be offset only by DoD or VA payments and benefits that are primarily funded by Government appropriations. Potential damages calculated under this part are not offset by U.S. Government payments and benefits that are substantially funded by the military member. The following examples are provided for illustrative purposes only, are not all-inclusive, and are subject to adjustment as appropriate.

(1) The following DoD and VA payments and benefits are primarily funded from Government appropriations and will be offset:

(i) Disability retired pay in the case of retirement due to the disability caused by the alleged medical malpractice;

(ii) Disability severance pay in the case of non-retirement disability separation caused by the alleged medical malpractice.

(iii) Incapacitation pay.

(iv) Involuntary and voluntary separation pays and incentives.

(v) Death gratuity.

(vi) Housing allowance continuation.

(vii) Survivor Benefit Plan.

(viii) VA disability compensation, to include Special Monthly Compensation, attributable to the disability resulting from the malpractice.

(ix) VA Dependency and Indemnity Compensation, attributable to the disability resulting from the malpractice.

(x) Special Survivor Indemnity Allowance.

(xi) Special Compensation for Assistance with Activities of Daily Living.

(xii) Program of Comprehensive Assistance for Family Caregivers.

(xiii) Fry Scholarship.

(xiv) TRICARE coverage, including

TRICARE-for-Life, for a disability retiree, family, or survivors. Future TRICARE coverage is part of the Government's compensation package for a disability retiree or survivor.

(2) The following U.S. Government payments and benefits are substantially funded by the military members or are otherwise generally not eligible for consideration as potential offsets:

(i) Servicemembers Group Life Insurance.

(ii) Traumatic Servicemembers Group Life Insurance.

(iii) Social Security disability benefits.

(iv) Social Security survivor benefits.

(v) Prior Government contributions to a Thrift Savings Plan.

(vi) Commissary, exchange, and morale, welfare, and recreation facility access.

(vii) Value of legal assistance and other services provided by DoD.

(viii) Medical care provided while in active service or in an active status prior to death, retirement, or separation.

Dated: May 6, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024-10130 Filed 5-9-24; 8:45 am]

BILLING CODE 6001-FR-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[Docket Number USCG-2024-0177]

RIN 1625-AA08

**Special Local Regulation; Red River, Shreveport, LA**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local

regulation (SLR) for certain navigable waters of the Red River. This action is necessary to provide for the safety of life on these navigable waters near Shreveport, Louisiana, during high-speed powerboat races from May 24, 2024 through May 26, 2024. This rulemaking prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Sector Lower Mississippi River or a designated representative.

**DATES:** This rule is effective from 6 a.m. on May 24, 2024 through 6 p.m. on May 26, 2024.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email MSTC Lindsey Swindle, Waterways Management, U.S. Coast Guard; telephone 571-610-4197, email [Lindsey.M.Swindle@uscg.mil](mailto:Lindsey.M.Swindle@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

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

**II. Background Information and Regulatory History**

On December 8, 2023, an organization notified the Coast Guard that it will be conducting high-speed powerboat races from 6 a.m. through 6 p.m. each day from May 24, 2024, through May 26, 2024. The races will take place between mile marker 228.1 and mile marker 228.8 on the Red River, Shreveport, LA, and involve approximately 55 powerboats ranging from 14 to 18 feet in length. No spectator craft will be allowed in the regulated area. The Captain of the Port Sector Lower Mississippi River (COTP) has determined that potential hazards associated with the high-speed powerboat race would be a safety concern for participants, participant vessels, and general public. In response, on March 25, 2024, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation: Red River, Shreveport, LA (89 FR 20577). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended April 10, 2024, we received one comment.

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 the effective date of this rule would be impracticable

because immediate action is needed to respond to the potential safety hazards associated with the high-speed powerboat race would be a safety concern for participants, participant vessels, and general public.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port Sector Lower Mississippi River (COTP) has determined that potential hazards associated with the high-speed powerboat race would be a safety concern for participants, participant vessels, and general public. The purpose of this rule is to ensure safety of vessels and the navigable waters in the regulated area before, during, and after the scheduled event.

**IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received one comment to our NPRM published March 25, 2024. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM. The Coast Guard conducted a National Environmental Policy Act (NEPA) analysis for this marine event and determined not be a danger to the environment. In addition, the Coast Guard will monitor the event via contact with the sponsor and the sponsor will have adequate boat crew on-site.

This rule establishes a temporary special local regulation from 6 a.m. to 6 p.m. each day on May 24, 2024 through May 26, 2024. The temporary special local regulation will cover all navigable waters within from mile marker 228.1 to mile marker 228.8 in Shreveport, LA. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the high-speed powerboat races. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

**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.

This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation, which will impact mile marker 228.1 to mile marker 228.8 on the Red River for 12 hours each day. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the regulated area, breaks in the racing will provide vessels opportunity to transit, and the rule allows vessels to seek permission to enter the zone.

**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 during rulemaking. 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 received zero comments from the Small Business Administration on this rulemaking. 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.

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 call or email 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.

### 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 an 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 Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), 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 special local regulation lasting approximately 12 hours on three separate days that will prohibit entry of persons or vessels during the Red River Rumble F1 Powerboat Showdown high-speed powerboat races. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

- 1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05-1.

- 2. Add § 100.T08-0177 to read as follows:

#### § 100.T08-0177 Red River Rumble F1 Powerboat Showdown, Shreveport, LA.

(a) *Regulated area.* The regulations in this section apply to the following area: A special local regulation is established to encompass all waters of the Red River from mile marker 228.1 to mile marker 228.8.

(b) *Definitions.* As used in this section—

*Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Lower Mississippi River (COTP) in the enforcement of the regulations in this section.

*Participant* means all persons and vessels registered with the event sponsor as a participant in the race.

*Spectator* means all persons and vessels not registered with the event

sponsor as participants or official patrol vessels.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by 314-269-2332. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via Broadcast Notice to Mariners and by on-scene designated representatives.

(d) *Enforcement periods.* This section is effective from 6 a.m. on May 24, 2024 until 6 p.m. on May 26, 2024. This section will be subject to enforcement from 6 a.m. to 6 p.m. each day.

Dated: May 6, 2024.

**Kristi L. Bernstein,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Lower Mississippi River.*

[FR Doc. 2024-10267 Filed 5-9-24; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2024-0245]

RIN 1625-AA87

#### Safety Zone: Piers Park, Boston Inner Harbor, East Boston, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for a portion of the navigable waters of Boston Inner Harbor in the vicinity of Piers Park, East Boston, Massachusetts. The temporary safety zone is needed to protect the maritime public and event participants from potential hazards created by a swim event taking place in a heavily trafficked harbor scheduled for June 9, 2024. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Boston, or a designated representative.

**DATES:** This rule is effective from 7 a.m. through noon on June 9, 2024.

**ADDRESSES:** To view documents mentioned in this preamble as being