

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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 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. From 8 a.m., May 24, 2004, to 8 p.m., June 2, 2004, add temporary § 165.T01–053 to read as follows:

§ 165.T01–053 Security Zones; New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Security zones.* The following waters within the New York Marine Inspection Zone and Captain of the Port Zone are security zones:

(1) *Stapleton Homeport Pier, Upper New York Bay, Staten Island, NY.* (i) *Location:* All waters of Upper New York Bay within approximately 400 yards of the Stapleton Homeport Pier, encompassed by a line connecting the following points: 40°38'00.6" N, 074°04'22.3" W, thence to 40°37'51.1" N, 074°03'46.5" W, thence to 40°37'27.5" N, 074°03'54.5" W, thence to 40°37'33.7" N, 074°04'20.8" W, (NAD 1983) thence along the shoreline to the point of origin.

(ii) *Enforcement period.* Paragraph (a)(1)(i) will be enforced from 8 a.m. on Monday, May 24, 2004 to 8 p.m. on Wednesday, June 2, 2004.

(2) *New York City Passenger Ship Terminal and Intrepid Museum, Hudson River, Manhattan, NY.* (i) *Location:* All waters of the Hudson River within approximately 400 yards of Piers 86, 88, 90, and 92, encompassed by a line connecting the following points: from the northeast corner of Pier 81 where it intersects the seawall, thence to approximate position 40°45'51.3" N, 074°00'30.2" W, thence to 40°46'27.7" N, 074°00'04.9" W, thence to the southeast corner of Pier 97 where it intersects the seawall.

(ii) *Enforcement period.* Paragraph (a)(2)(i) will be enforced from 9 a.m. on Tuesday, May 25, 2004 to 8 p.m. on Wednesday, June 2, 2004.

(3) *2004 Fleet Week, Port of NY/NJ.* (i) *Location:* All waters of the Port of New York/New Jersey within a 500-yard radius of each participating vessel in the 2004 Fleet Week between Ambrose Light (LLNR 720) and the George Washington Bridge (river mile 11.0) on the Hudson River.

(ii) *Enforcement period.* Paragraph (a)(3)(i) will be enforced from 8 a.m. on Wednesday, May 26, 2004, until 8 p.m. on Wednesday, June 2, 2004.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard.

(3) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 24, 2004.

C.E. Bone,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 04–12319 Filed 5–28–04; 8:45 am]

BILLING CODE 4910–15–P

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

[COTP Huntington–04–001]

RIN 1625–AA00

Safety Zone; Ohio River, Marietta, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the waters of the Ohio River beginning at mile 171.5 and ending at mile 172.5, extending the entire width of the river. This safety zone is needed to protect participating vessels and mariners during the Marietta Roar Tunnel Boat Race. With the exception of participating vessels and mariners, all vessels and persons are prohibited from transiting within this safety zone unless authorized by the Captain of the Port Huntington or a designated representative.

DATES: This rule is effective from 9:30 a.m. on July 3, 2004 until 7 p.m. on July 4, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP Huntington–04–001] and are available for inspection or copying at Marine Safety Office Huntington, 1415 6th Ave., Huntington, WV between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer (PO) John Bialasik, Marine Safety Office Huntington, WV, at (304) 529–5524.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM in the **Federal Register**. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to protect vessels and mariners participating in a high-speed boat race.

Background and Purpose

The APR Powerboat Superleague will be conducting the Marietta Roar Tunnel Boat Race on July 3 and July 4, 2004. Race boats will be traveling at a very high rate of speed and at times may not be able to stop to avoid a collision if spectator or other vessels are operating in close proximity of the racecourse. A safety zone is needed to protect the race boats, persons and spectators from the potential safety hazards associated with this boat race.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone for the waters of the Ohio River beginning at mile 171.5 and ending at mile 172.5, extending the entire width of the river. The term “participating vessel” includes all vessels registered with race officials to race or work in the event. They include race boats, rescue boats, towboats and picket boats associated with the race. With the exception of participating vessels and those mariners operating participating vessels, all vessels and persons are prohibited from transiting within this safety zone unless authorized by the Captain of the Port Huntington or a designated representative. This rule is effective from 9:30 a.m. on July 3, 2004 until 7 p.m. on July 4, 2004. This rule will only be enforced from 9:30 a.m. until 7 p.m. on each day that it is effective. During non-enforcement hours all vessels will be allowed to transit through the safety zone without having to obtain permission from the Captain of the Port Huntington or a designated representative. The Captain of the Port Huntington will inform the public through broadcast notice to mariners of the enforcement periods for the safety zone.

Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This regulation will only be in effect for nine and a half hours each day and notifications to the maritime community will be made through broadcast notice to mariners. During non-enforcement hours all vessels will be allowed to transit through the safety zone without having to obtain permission from the Captain of the Port Huntington or a designated representative. Additionally, 30-minute breaks will be scheduled every three hours to allow awaiting vessels to pass through the safety zone. The impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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 commercial and recreational vessels intending to transit the Ohio River from mile marker 171.5 to 172.5, from 9:30 a.m. on July 3, 2004 until 7 p.m. on July 4, 2004. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (1) This rule will only be enforced from 9:30 a.m. until 7 p.m. on each day that it is effective; (2) During non-enforcement hours all vessels will be allowed to transit through the safety zone without permission from the Captain of the Port Huntington or a designated representative; and (3) 30-minute breaks will be scheduled every three hours to allow awaiting vessels to pass through the safety zone. If you are a small business entity and are significantly affected by this regulation, please contact PO John Bialasik, Marine Safety Office Huntington, WV, at (304) 529–5524.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could 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).

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

Taking of Private Property

This rule will not affect 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.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in NEPA.

Under figure 2–1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 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. Temporarily add new § 165.T08–032 to read as follows:

§ 165.T08–032 Safety Zone; Ohio River, Mile 171.5 to 172.5 Marietta, OH.

(a) *Definition.* As used in this section—

Participating vessel means all vessels registered with race officials to race or work in the event. These vessels include race boats, rescue boats, towboats and picket boats associated with the race.

(b) *Location.* The following area is a safety zone: the waters of the Ohio River beginning at mile 171.5 and ending at mile 172.5, extending the entire width of the river.

(c) *Effective date.* This rule is effective from 9:30 a.m. on July 3, 2004 until 7 p.m. on July 4, 2004.

(d) *Periods of Enforcement.* This rule will be enforced from 9:30 a.m. until 7 p.m. on each day that it is effective. The Captain of the Port Huntington or a designated representative will inform the public through broadcast notice to mariners of the enforcement periods for the safety zone.

(e) *Regulations:* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited to all persons and vessels except participant vessels and those vessels specifically authorized by the Captain of the Port Huntington or a designated representative.

(2) Persons or vessels other than participating vessels and mariners requiring entry into or passage through the zone must request permission from the Captain of the Port Huntington or a designated representative. They may be contacted on VHF–FM Channel 13 or 16 or by telephone at (304) 529–5524.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Huntington and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: May 20, 2004.

J.M. Michalowski,

Commander, U.S. Coast Guard, Captain of the Port Huntington.

[FR Doc. 04–12321 Filed 5–28–04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Charleston 04–046]

RIN 1625–AA00

Safety Zone; Bucksport, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Bucksport Marina Championship powerboat races, on the Intracoastal Waterway from Little River to Winyah Bay. This regulation is necessary for the safety of life during the event and to protect commercial and recreational boaters from the hazards associated with the races. Entry into the safety zone is prohibited unless authorized by the COTP Charleston or a designated representative.

DATES: This rule is effective from 10 a.m. on June 5, 2004 until 7 p.m. on June 6, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket COTP Charleston 04–046 and are available for inspection or copying at Coast Guard Marine Safety Office Charleston, South Carolina, between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Matthew Meskun, U.S. Coast Guard Marine Safety Office Charleston, South Carolina, at (843) 720–3240.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM would be unnecessary and contrary to public safety interests. This rule is needed to minimize danger to the public resulting from participant craft in the Bucksport Marina Championship. The event will be held from 10 a.m. on June 5, 2004 until 7 p.m. on June 6, 2004 and there is not sufficient time to

allow for a notice and comment period prior to the event. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. In addition, advance notifications will be made via marine information broadcasts.

For the same reasons, 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**.

Background and Purpose

The Bucksport Marina Championship is a powerboat race, which will consist of 25 powerboats 13 to 18 feet in length. Approximately 75 spectator craft are also expected to view the races. Portions of the Intracoastal Waterway will be closed for the races. The safety zone will minimize dangers to spectators in attendance. These regulations require that non-participants remain outside the operating area for their safety. The operating area includes all waters of the Atlantic Intracoastal Waterway, from bank to bank, from Little River at Day Beacon 35 (LLNR 33835) to Winyah Bay 100 yards South of light 38 (LLNR 33845).

During the event, non-participating vessels are prohibited from anchoring, mooring, or transiting within this zone, unless authorized by the Captain of the Port, Charleston, South Carolina or the Coast Guard Patrol Commander.

Regulatory Evaluation

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. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary, because the safety zone will only be in effect for 2 days and only covers a limited area.

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 business, not-for-profit organizations that are independently owned and operated and are not