

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.ID, 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 that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, canoe and sail board racing. 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 100

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

For the reasons discussed in the preamble, the Coast Guard amends 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: 33 U.S.C. 1233.

- 2. Add a temporary section, § 100.35–T05–0126, to read as follows:

#### § 100.35–T05–0126 Special Local Regulations for Marine Events; Chester River, Chestertown, MD.

(a) *Regulated area.* The following locations are regulated areas: All waters of the Chester River, within a line connecting the following positions: Latitude 39°12'27" N, longitude 076°03'46" W; thence to latitude 39°12'19" N, longitude 076°03'53" W; thence to latitude 39°12'25" N, longitude 076°03'41" W; thence to

latitude 39°12'16" N, longitude 076°03'48" W; thence to the point of origin at latitude 39°12'27" N, longitude 076°03'46" W, located at Chestertown, Maryland. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations:* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by the Coast Guard Patrol Commander or any Official Patrol.

(ii) Proceed as directed by the Coast Guard Patrol Commander or any Official Patrol.

(d) *Enforcement period:* (1) This section will be enforced from 10 a.m. until 5 p.m. on May 28, 2011.

(2) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue marine information broadcast on VHF–FM marine band radio announcing specific event date and times.

Dated: May 4, 2011.

**Mark P. O'Malley,**

*Captain, U.S. Coast Guard, Captain of the Port Baltimore, Maryland.*

[FR Doc. 2011–12373 Filed 5–20–11; 8:45 am]

BILLING CODE 9110–04–P

### DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

[Docket No. USCG–2011–0289]

RIN 1625–AA08

### Special Local Regulations; Miami Super Boat Grand Prix, Miami Beach, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing special local regulations on the waters of the Atlantic Ocean east of

Miami Beach, Florida during the Miami Super Boat Grand Prix. The Miami Super Boat Grand Prix will consist of a series of high-speed boat races. The event is scheduled to take place on Sunday, June 5, 2011. These special local regulations are necessary to provide for the safety of life on navigable waters during the high-speed boat races. The special local regulations will temporarily restrict vessel traffic in an area east of Miami Beach. The special local regulations will establish the following two areas: A race area, where all persons and vessels except those persons and vessels participating in or conducting the race are prohibited from entering, transiting, anchoring, or remaining; and a spectator area, where all vessels are prohibited from anchoring.

**DATES:** This rule is effective from 10 a.m. until 4 p.m. on June 5, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0289 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0289 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 rule, call or e-mail Lieutenant Paul A. Steiner, Sector Miami Prevention Department, Coast Guard; telephone 305–535–8724, e-mail [Paul.A.Steiner@uscg.mil](mailto:Paul.A.Steiner@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 necessary

information about the event with sufficient time to publish an NPRM and to receive public comments prior to the event. Although this event occurs annually, and special local regulations for this event are in the Code of Federal Regulations at 33 CFR 100.701, this year the event host changed the date of the event from the third weekend in April to June 5, thereby rendering the special local regulations set forth in 33 CFR 100.701 inapplicable for this year’s 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 the race participants, participant vessels, spectators, and the general boating public.

##### **Background and Purpose**

On June 5, 2011, Super Boat International Productions, Inc. is hosting the Miami Super Boat Grand Prix, a series of high-speed boat races. The event will be held on the waters of the Atlantic Ocean east of Miami Beach, Florida. Approximately 25 high-speed power boats will be participating in the races, and it is anticipated that at least 10 spectator vessels will be present in the area during the races. The high speed of the participant vessels poses a safety hazard to race participants, participant vessels, spectators, and the general public. The special local regulations are necessary to protect race participants, participant vessels, spectators, and the general public from the hazards associated with the high-speed boat races.

##### **Discussion of Rule**

The special local regulations will be enforced from 10 a.m. until 4 p.m. on June 5, 2011 on the waters of the Atlantic Ocean east of Miami Beach, Florida during the Miami Super Boat Grand Prix. The special local regulations establish the following two areas: (1) A race area, where all vessels except those vessels participating in or conducting the race are prohibited from entering, transiting, anchoring, or remaining unless authorized by the Captain of the Port Miami; and (2) a spectator area, where all vessels are prohibited from anchoring. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area by contacting the Captain of the Port Miami via telephone at 305–535–4472, or a designated representative via VHF radio on channel 16.

##### **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.

##### **Executive Order 12866 and Executive Order 13563**

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, 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 special local regulations will be enforced for only six hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the race area without authorization from the Captain of the Port Miami or a designated representative, they may operate in the surrounding area, including the spectator area, while the special local regulations are enforced; (3) persons and vessels may still enter, transit through, anchor in, or remain within the race area if authorized by the Captain of the Port Miami or a designated representative; and (4) advance notification will be made to the local maritime community via Local Notice to Mariners and Broadcast Notice to Mariners.

##### **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 that portion of the Atlantic Ocean encompassed within the special local regulations from 10 a.m. until 4 p.m. on June 5, 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 that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves special local regulations issued in conjunction with a marine event. Under figure 2–1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

#### 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 amends 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:** 33 U.S.C. 1233.

■ 2. Add a temporary § 100.T07–0289 to read as follows:

#### § 100.T07–0289 Special Local Regulations; Miami Super Boat Grand Prix, Miami Beach, FL.

(a) *Regulated Area.* The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) *Race Area.* All waters of the Atlantic Ocean east of Miami Beach, FL encompassed within an imaginary line connecting the following points: starting at Point 1 in position 25°49'14" N, 80°07'13" W; thence east to Point 2 in position 25°49'13" N, 80°06'48" W; thence southwest to Point 3 in 25°46'00" N, 80°07'26" W; thence west to Point 4 in position 25°46'00" N, 80°07'51" W; thence northeast back to origin. All vessels except those vessels participating in or conducting the race

are prohibited from entering, transiting through, anchoring in, or remaining within the race area without authorization from the Captain of the Port Miami or a designated representative.

(2) *Spectator Area.* All waters of the Atlantic Ocean east of Miami Beach, FL encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 25°49'13" N, 80°06'48" W; thence east to Point 2 in position 25°49'14" N, 80°06'42" W; thence southwest to Point 3 in 25°46'00" N, 80°07'19" W; thence west to Point 4 in position 25°46'00" N, 80°07'26" W; thence northeast back to origin. All vessels, including spectator vessels, are prohibited from anchoring in the spectator area. On-scene designated representatives will direct spectator vessels to the spectator area.

(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 Miami in the enforcement of the regulated areas.

(c) *Regulations.*

(1) Persons and vessels desiring to enter, transit through, anchor in, or remain within the race area may contact the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16, to seek authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(2) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule is effective from 10 a.m. until 4 p.m. on June 5, 2011.

Dated: April 22, 2011.

**C.P. Scraba,**

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

[FR Doc. 2011-12376 Filed 5-20-11; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0184]

RIN 1625-AA00

#### Safety Zone, Newport River; Morehead City, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the waters of the Newport River under the main span US 70/Morehead City—Newport River high rise bridge in Carteret County, NC. This safety zone is necessary to provide for safety of life on navigable waters during the establishment of staging for bridge maintenance. This rule will enhance the safety of the contractors performing maintenance as well as the safety of vessels that plan to transit this area.

**DATES:** This rule is effective from 10 a.m. to 4 p.m. on June 30, 2011.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2011-0184 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0184 in the "Keyword" box, and then clicking "Search." This material is 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 BOSN3 Joseph M. Edge, Coast Guard Sector North Carolina, Coast Guard; telephone 252-247-4525, e-mail [Joseph.M.Edge@uscg.mil](mailto:Joseph.M.Edge@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

On April 5, 2011, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone, Newport River; Morehead City, North Carolina in the **Federal Register** (33 FR 165). We received no comments on the proposed

rule. No public meeting was requested, and none was held.

##### Background and Purpose

The State of North Carolina Department of Transportation awarded a contract to Astron General Contracting Company of Jacksonville, NC to perform bridge maintenance on the US Highway 70 Fixed bridge crossing Newport River at Morehead City, North Carolina. The contract provides for cleaning, painting, and steel repair to begin on June 1, 2011 and will be completed by July 31, 2011. The contractor requires the main channel in the vicinity of the bridge to remain closed during mobilization on June 30, 2011 from 10 a.m. to 4 p.m. The Coast Guard will temporarily restrict access to this section of Newport River during the mobilization of the bridge maintenance equipment.

##### Discussion of Comments and Changes

There were no comments; no changes were made.

##### 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.

Although this regulation will restrict access to the area, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited time, from 10 a.m. to 4 p.m., on June 30, 2011, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) although the safety zone will apply to the section of the Newport River in the immediate vicinity of the US Highway 70 Fixed bridge, vessel traffic may use alternate waterways to transit safely around the safety zone. All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

##### 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