

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 100**

[CGD05-01-070]

RIN 2115-AE46

Special Local Regulations for Marine Events; Western Branch, Elizabeth River, Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting permanent special local regulations for marine events held on the waters of the Western Branch of the Elizabeth River, Portsmouth, Virginia. This action is necessary to provide for the safety of life on navigable waters during the events. This action is intended to restrict vessel traffic in portions of the Western Branch of the Elizabeth River during the events.

DATES: This rule is effective May 13, 2002.

ADDRESSES: Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-01-070 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S.L. Phillips, Project Manager, Auxiliary and Recreational Boating Safety Section, at (757) 398-6204.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On January 9, 2002, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Western Branch, Elizabeth River, Portsmouth, Virginia, in the **Federal Register** (67 FR 1177). We received no letters commenting on the proposed rule. No public hearing was requested and none was held.

Background and Purpose

The City of Portsmouth, Ports Events, Inc., and other event organizers sponsor marine events throughout the year on the waters of the Western Branch of the Elizabeth River. These marine events are held adjacent to the Portsmouth City Park. A fleet of spectator vessels traditionally gathers near the event site to view the marine events. To provide for the safety of event participants, spectators and transiting vessels, the

Coast Guard will temporarily restrict the movement of all vessels operating in the event area during the marine events.

Discussion of Comments and Changes

No comments were received. Changes were made to the proposed regulatory text, however, to correctly identify the intended effective period. We noticed after publication of the NPRM that the effective dates, as written, may not necessarily fall on consecutive days in certain months. Since the marine events associated with these special local regulations are always held on consecutive days, we are changing the effective dates to reflect consecutive days. These changes do not extend the period of time that the regulations will be in effect.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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 Transportation (DOT) (44 FR 11040; February 26, 1979).

Although this regulation prevents traffic from transiting a portion of the Western Branch of the Elizabeth River during the events, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612.), we considered whether this proposed 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 will affect the owners or operators of vessels, some of which may be small entities, intending to transit or anchor in the effected portions of the Western Branch of the Elizabeth River during the events.

Although this regulation prevents traffic from transiting a portion of the Western Branch of the Elizabeth River during the events, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

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 this rule so that they can better evaluate its effects on them and participate in the rulemaking. No assistance was requested by any small business, organization, or governmental jurisdiction.

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 law 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 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 concern 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 and 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We prepared an "Environmental Assessment" in accordance with

Commandant Instruction M16475.1D, and determined that this rule will not significantly affect the quality of the human environment. The "Environmental Assessment" and "Finding of No Significant Impact" is 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 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. § 100.525 is added to read as follows:

§ 100.525 Western Branch, Elizabeth River, Portsmouth, Virginia.

(a) Definitions:

(1) *Coast Guard Patrol Commander.*

The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Hampton Roads.

(2) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Group Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Regulated Area.* The regulated area includes all waters of the Western Branch, Elizabeth River bounded by a line connecting the following points:

Latitude	Longitude
36°50'18" North	076°23'10" West, to
36°50'18" North	076°21'42" West, to
36°50'12" North	076°21'42" West, to
36°50'12" North	076°23'10" West, to
36°50'18" North	076°23'10" West

All coordinates reference Datum NAD 1983.

(b) *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 this area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign; and

(ii) Proceed as directed by any Official Patrol, including any commissioned,

warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective Dates.* This section is effective annually from 6 a.m. to 6 p.m. on the fourth Friday and following Saturday in March, the fourth Friday and following Saturday in April, the second Friday and following Saturday in May, and the second Saturday and following Sunday in October.

Dated: March 27, 2002.

Thad W. Allen,

Vice Admiral, Coast Guard, Commander, Fifth Coast Guard District.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05-02-012]

RIN 2115-AE46

Special Local Regulations for Marine Events; Lawson's Creek and Trent River, New Bern, NC

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations during the Lawson's Creek Hydroplane Race, a marine event to be held on the waters of Lawson's Creek and the Trent River, near New Bern, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of Lawson's Creek and the Trent River during the event.

DATES: This rule is effective from 7 a.m. EDT on May 17, 2002 until 5 p.m. EDT on May 19, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD05-02-012 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Auxiliary and Recreational Boating Safety Section, at (757) 398-6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this