

the bow of a tow containing one or more barges, while transiting the regulated navigation area. The bow boat must be capable of preventing a tow containing one or more barges from coming into contact with the shore and other moored vessels.

Designated representatives means the Captain of the Port Lake Michigan and Commanding Officer, Marine Safety Unit Chicago.

Hazardous material means any material as defined in 46 CFR 150.115.

Red flag barge means any barge certificated to carry any hazardous material in bulk.

(2) *Notice of enforcement or suspension of enforcement.* The Captain of the Port Lake Michigan will enforce the Regulated Navigation Area established by this section only upon notice. Captain of the Port Lake Michigan will cause notice of the enforcement of this regulated navigation area to be made by all appropriate means to effect the widest publicity among the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port Lake Michigan will issue a Broadcast Notice to Mariners and Local Notice to Mariners notifying the public when enforcement of these safety zones is suspended.

(3) *Regulations.* (i) The general regulations contained in 33 CFR 165.13 apply.

(ii) All up-bound and down-bound barge tows that contain one or more red flag barges transiting through the regulated navigation area must be assisted by a bow boat until the entire tow is clear of the regulated navigation area.

(iii) Vessels engaged in commercial service, as defined in 46 U.S.C. 2101(5), may not pass (meet or overtake) in the regulated navigation area and must make a SECURITE call when approaching the regulated navigation area to announce intentions and work out passing arrangements on either side.

(iv) Commercial tows transiting the regulated navigation area must be made up with wire rope to ensure electrical connectivity between all segments of the tow.

(v) All vessels are prohibited from loitering between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(vi) Vessels may enter the waters between the Romeo Road Bridge

(approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge) for the sole purpose of transiting to the other side and must maintain headway throughout the transit. All vessels and persons are prohibited from dredging, laying cable, dragging, fishing, conducting salvage operations, or any other activity, which could disturb the bottom of the canal in the area located between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(vii) All personnel on open decks must wear a Coast Guard approved Type I personal flotation device while in the waters between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(viii) Vessels may not moor or lay up on the right or left descending banks of the waters between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(ix) Towboats may not make or break tows if any portion of the towboat or tow is located in the waters between the Romeo Road Bridge (approximate mile marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(4) *Compliance.* All persons and vessels must comply with this section and any additional instructions or orders of the Ninth Coast Guard District Commander, or his designated representatives.

(5) *Waiver.* For any vessel, the Ninth Coast Guard District Commander, or his designated representatives, may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of vessel and mariner safety.

Dated: August 17, 2009.

D.R. Callahan,

*Captain, U.S. Coast Guard, Commander,
Ninth Coast Guard District, Acting.*

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0359]

RIN 1625-AA00

Safety Zone; Sabine River, Orange, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on a portion of the Sabine River, shoreline to shoreline, adjacent to the Naval Reserve Center and the Orange public boat ramps located in Orange, Texas. With the exception of participating vessels and patrol craft, entry into this zone is prohibited unless specifically authorized by the Captain of the Port, Port Arthur, or a designated representative. This safety zone is needed to protect spectators and vessels from potential safety hazards associated with a high speed boat race.

DATES: This rule is effective from 9 a.m. on September 19, 2009, until 6 p.m. on September 20, 2009.

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-2009-0359 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0359 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 Mr. Scott Whalen, USCG, Marine Safety Unit Port Arthur, TX; telephone (409) 719-5806, e-mail scott.k.whelen@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 June 12, 2009, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Sabine River, Orange, TX" in the **Federal Register** (74 FR 27953). We received no comments

on the proposed rule. No public meeting was requested, and none was held.

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 contrary to the public interest because immediate action is needed to protect vessels and mariners from the safety hazards associated with a high speed boat race.

Background and Purpose

The City of Orange is sponsoring high speed boat races on the Sabine River in Orange, Texas on September 19 and 20, 2009. Race boats will be traveling at a very high rate of speed and at times may not be able to stop or avoid a collision if spectator or other vessels are operating in close proximity to the race course. The proposed safety zone is needed to protect the race boats, persons and spectators from the potential safety hazards associated with high speed boat races.

The safety zone will cover a portion of the Sabine River, from shoreline to shoreline, adjacent to the Naval Reserve Center and the Orange public boat ramps in Orange, Texas. The northern boundary of the safety zone will be from the end of Navy Pier One at 30°05'45" N and 93°43'24" W, then easterly to the river's eastern shore. The southern boundary is a line shoreline to shoreline at latitude 30°05'33" N.

Discussion of Comments and Changes

No comments were received and no changes have been made to the proposed rule published in the **Federal Register**.

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.

This rule will only be in effect for 9 hours each day and notifications to the marine community will be made through broadcast notice to mariners and Marine Safety Information Bulletin. During non-enforcement hours, all

vessels will be allowed to transit through the safety zone without permission of the Captain of the Port, Port Arthur or a designated representative. Additionally, two breaks will be provided to allow all waiting vessels to transit safely 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 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 for the following reasons: (1) This rule will only be enforced from 9 a.m. until 6 p.m. each day that it is effective; (2) 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, Port Arthur or a designated representative; and, (3) vessels will be allowed to pass through the zone with permission of the Coast Guard Patrol Commander during scheduled break periods between races and at other times when permitted by the Coast Guard Patrol Commander.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM 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). 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 which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction because the rule establishes a temporary safety zone.

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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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. Add temporary § 165.T08-0359 to read as follows:

§ 165.T08-0359 Safety Zone; Sabine River, Orange, TX.

(a) *Definitions.* As used in this section, Participant Vessel means all vessels officially registered with event officials to race or work in the event. These vessels include race boats, rescue boats, tow boats, and picket boats associated with the race.

(b) *Location.* The following area is a safety zone: All waters of the Sabine River, from shoreline to shoreline, adjacent to the Naval Reserve Unit and the Orange public boat ramps located in Orange, Texas. The northern boundary is from the end of Navy Pier One at 30°05'45" N and 93°43'24" W then easterly to the river's eastern shore. The southern boundary is a line from shoreline to shoreline at latitude 30°05'33" N.

(c) *Effective date.* This rule is effective from 9 a.m. on September 19, 2009 until 6 p.m. on September 20, 2009.

(d) *Periods of Enforcement.* This rule will be enforced from 9 a.m. until 6 p.m. on September 19, 2009, and 9 a.m. until 6 p.m. on September 20, 2009. The Captain of the Port, Port Arthur 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 vessels except participant vessels and those vessels specifically authorized by the Captain of the Port, Port Arthur or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port, Port Arthur, or a designated representative. They may be contacted on VHF Channel 13 or 16, or by telephone at (409) 723-6500.

(3) All persons and vessels must comply with the instructions of the Captain of the Port, Port Arthur,

designated representatives 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: July 22, 2009.

J.J. Plunkett,

Captain, U.S. Coast Guard, Captain of the Port, Port Arthur.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075-1217-02]

RIN 0648-XP75

Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Part-time Category

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; tilefish Part-time permit category closure.

SUMMARY: NMFS announces that the percentage of the tilefish annual total allowable landings (TAL) available to the tilefish Part-time permit category for the 2009 fishing year has been harvested. Therefore, commercial vessels fishing under the Part-time tilefish category may not harvest tilefish from within the Golden Tilefish Management Unit for the remainder of the 2009 fishing year. Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

DATES: Effective August 21, 2009 through 2400 hrs local time, October 31, 2009.

FOR FURTHER INFORMATION CONTACT: Anna Macan, Fisheries Management Specialist, at (978) 281-9165.

SUPPLEMENTARY INFORMATION: Regulations governing the tilefish fishery are found at 50 CFR part 648. The regulations require annual specification of a TAL for federally permitted tilefish vessels harvesting tilefish from within the Golden Tilefish Management Unit. The Golden Tilefish Management Unit is defined as an area of the Atlantic Ocean from the latitude of the VA and NC border (36°33.36' N. lat.), extending eastward from the shore to the outer boundary of the exclusive