

rules. The trustee makes monthly payments of \$1,000 to pay the premiums due for Participant P's health insurance and Participant P's account balance is reduced by \$1,000 at the time of each premium payment. In June 2015, Participant P is admitted to the hospital for covered medical care, and in July 2015, the health insurer pays the hospital \$5,000 for the medical care provided to Participant P in June.

(ii) *Conclusion.* Under paragraph (e)(1) of this section, each of the trustee's payments of \$1,000 constitutes a taxable distribution under section 402(a) to Participant P on the date of each payment. The amount of these distributions may constitute payments for medical care under section 213. The \$5,000 payment to the hospital is excludable from Participant P's gross income under section 104(a)(3) and is not treated as a distribution from the plan.

*Example 2. (i) Facts.* Employer B sponsors a profit-sharing plan qualified under section 401(a). The plan provides for elective contributions described in section 401(k) and matching contributions as well as non-elective employer profit-sharing contributions. The plan does not provide that a disabled participant's compensation for purposes of determining plan contributions includes amounts that the participant would have received in the absence of the disability, and accordingly Employer B does not make any contributions to the plan for the benefit of a disabled employee for the period of disability. The plan's trustee enters into a contract with a third-party insurance carrier to provide disability insurance for plan participants who elect to be covered under the insurance contract. The insurance contract provides for the payment of an amount to the trustee on a participant's behalf during the period of the participant's disability. Amounts to be paid to the trustee from the insurance contract with respect to a participant are equal to the sum of the elective, matching, and non-elective employer profit-sharing contributions that would have been made on the participant's behalf during the participant's disability (based on the participant's rate of compensation before becoming disabled) with the payments to continue for the duration of the disability until age 65 (or 5 years after the participant became disabled, if later). Participant Q elects to be covered under the insurance contract, and the trustee makes the periodic premium payments out of the account balance of Participant Q. In June 2015, Participant Q becomes disabled. During the period Participant Q is absent from employment due to disability, the insurer pays the trust the amount of the elective contributions and non-elective employer profit-sharing contributions that would have been made to the trust with respect to Participant Q had Participant Q not been disabled. The amount of the premiums for the insurance contract satisfies the limitations on incidental benefits under § 1.401-1(b)(1)(ii).

(ii) *Conclusion.* The payment of premiums from the trust is described in paragraph (e)(1)(iii) of this section. Accordingly, none of the premium payments under the contract constitute a distribution under section 402(a)

to Participant Q. Further, amounts paid from the insurance contract to the trust also do not constitute a distribution to Participant Q. However, when Participant Q's account balance is distributed from the trust, the distribution will be subject to taxation in the year of distribution in accordance with the rules in section 402.

(7) *Effective/applicability date.* This paragraph (e) applies for taxable years beginning on or after January 1, 2015.

**Par. 8.** Section 1.402(c)-2 is amended by redesignating paragraph A-4(j) as paragraph A-4(k) and adding a new paragraph A-4(j) to read as follows:

**§ 1.402(c)-2 Eligible rollover contributions; questions and answers.**

\* \* \* \* \*

A-4: \* \* \*

(j) Distributions of premiums for accident or health insurance under § 1.402(a)-1(e)(1)(i). This paragraph A-4(j) applies for taxable years beginning on or after January 1, 2015.

\* \* \* \* \*

**Par. 9.** Section 1.403(a)-1 is amended by revising paragraph (g) to read as follows:

**§ 1.403(a)-1 Taxability of beneficiary under a qualified annuity plan.**

\* \* \* \* \*

(g) The rules of § 1.402(a)-1(e) apply for purposes of determining the treatment of amounts paid to provide accident and health insurance benefits.

**Par. 10.** Section 1.403(b)-6 is amended in paragraph (g) by adding two sentences at the end of the paragraph to read as follows:

**§ 1.403(b)-6 Timing of distributions and benefits.**

\* \* \* \* \*

(g) \* \* \* The rules of § 1.402(a)-1(e) apply for purposes of determining when certain incidental benefits are treated as distributed and included in gross income. See §§ 1.72-15 and 1.72-16.

\* \* \* \* \*

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: May 6, 2014.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury (Tax Policy).*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2014-0134]

**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 the navigable waters of the Sabine River in Orange, TX in support of Deep South Racing Association (DSRA) boat races. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with a boat race competition. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the COTP or his designated representative.

**DATES:** This rule is effective May 31, 2014 through June 1, 2014. This rule will be enforced from 8:30 a.m. until 6:00 p.m. on May 31, 2014, and from 8:30 a.m. until 6:00 p.m. on June 1, 2014.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG-2014-0134]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 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 email Mr. Scott Whalen, U.S. Coast Guard MSU Port Arthur, (409) 719-5086 or email, [scott.k.whelan@uscg.mil](mailto:scott.k.whelan@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**Table of Acronyms**

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

## A. Regulatory History and 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) 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 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. The Coast Guard received notice on March 3, 2014 that this event is planned to take place May 31 and June 1, 2014. This is the first time this event has taken place in Orange, TX, and upon full review of the event details, the Coast Guard determined that additional safety measures are necessary.

Completing the full NPRM process would be impracticable, delaying the effective date for this safety zone. Immediate action is necessary to protect event participants and members of the public from hazards associated with high speed boat races on the waterway. This event is advertised and the local community has planned for this event. Delaying the safety zone may also unnecessarily interfere with the planned event and possible contractual obligations.

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**. Providing a full 30 days notice and delaying the effective date for this safety zone would be impracticable because immediate action is necessary to protect event participants and members of the public from the hazards present during a personal watercraft race competition.

The Coast Guard will notify the public and maritime community that the safety zone will be in effect and of its enforcement periods via broadcast notices to mariners (BNM) and will be published in the Local Notice to Mariners (LNM).

## B. Basis and Purpose

The Deep South Racing Association (DSRA) is holding a two day watercraft race competition on the Sabine River in Orange, TX on May 31 and June 1, 2014. This event poses a hazard to life and property as it involves high speed watercraft racing in a narrow waterway frequented by other commercial and recreational vessel traffic. Additionally,

the race event is likely to attract spectator craft to the area. The Coast Guard determined that a temporary safety zone is needed to protect spectators as well as persons participating in the event. The legal basis and authorities for this rulemaking establishing a safety zone are found in 33 U.S.C. 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; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones. A safety zone is necessary to protect vessels and mariners from the hazards associated with this high speed boat race on the waterway.

## C. Discussion of the Temporary Final Rule

The Coast Guard is establishing a temporary safety zone encompassing all waters of the Sabine River, shoreline to shoreline, adjacent to the Naval Reserve Unit and the Orange public boat ramps located in Orange, TX. The northern boundary is from the end of Navy Pier One at 30°05'45" N 93°43'24" W then easterly to the rivers eastern shore. The southern boundary is a line shoreline to shoreline at latitude 30°05'33" N (NAD83).

This safety zone is needed to protect mariners and event participants from hazards associated with high speed boat races. No person or vessel may enter into or remain in the zone without permission of the Captain of the Port.

## D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

### 1. Regulatory Planning and Review

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, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard has determined that this rule is not a significant regulatory action for the following reasons: (1) The rule will be enforced for 9.5 hours each day for two days; (2) scheduled breaks

will be provided to allow waiting vessels to transit safely through the affected area; (3) persons and vessels may enter, transit through, anchor in, or remain within the regulated area if they obtain permission from the COTP or the designated representative; and (4) advance notification will be made to the maritime community via broadcast notice to mariners (BNM) and Local Notice to Mariners (LNM). Therefore, the Coast Guard enforcement of this safety zone is not a significant regulatory action.

### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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. This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit through or remain in the safety zone area. 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 8:30 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.

### 3. Assistance for Small Entities

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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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.

#### 4. 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).

#### 5. Federalism

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 determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.

#### 7. 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.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. 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.

#### 10. 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.

#### 11. 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.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. 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 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 safety zone established for the protection of spectators from the hazards associated with a personal watercraft race competition. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. A checklist and categorical exclusion determination will be provided in the docket accessible as indicated under **ADDRESSES**.

#### 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. 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, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary section § 165.T08-0134 is added to read as follows:

#### § 165.T08-0134 Safety Zone; Sabine River, Orange, TX.

(a) *Location.* The following area is a safety zone: all waters of the Sabine River, shoreline to shoreline, adjacent to the Naval Reserve Unit and the Orange public boat ramps located in Orange, TX. The northern boundary is from the end of Navy Pier One at 30°05'45" N 93°43'24" W then easterly to the rivers eastern shore. The southern boundary is a line shoreline to shoreline at latitude 30°05'33" N (NAD83).

(b) *Effective dates and enforcement times.* This rule is effective on May 31, 2014 and on June 1, 2014. This rule will be enforced from 8:30 a.m. until 6:00 p.m. on May 31, 2014, and from 8:30 a.m. until 6:00 p.m. on June 1, 2014.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, no person or vessel may enter into or remain in the zone without permission of the Captain of the Port.

(2) Persons or vessels requiring entry into or passage through the zone may contact the Captain of the Port, Port Arthur, or a designated representative. They may be contacted on VHF-FM Channels 16, or by phone at (409) 719-5070.

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

(d) *Information Broadcasts.* The Captain of the Port, Port Arthur or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

Dated: April 9, 2014.

**G.J. Paitl,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2013-0503]

RIN 1625-AA00

#### Safety Zones; Captain of the Port Boston Fireworks Display Zones, Boston Harbor, Boston, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing six permanent safety zones throughout Boston Inner Harbor to be enforced during certain fireworks displays. These six permanent safety zones will expedite public notification of certain fireworks events and ensure the protection of the maritime public and event participants from the hazards associated with maritime fireworks displays.

**DATES:** This rule is effective on June 11, 2014.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG-2013-0503. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" Box and click "SEARCH." Click on Open Docket Folder on the line associated with the rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation, West Building, 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 email Mr. Mark Cutter, Coast Guard Sector Boston Waterways Management Division, telephone 617-223-4000, email [Mark.E.Cutter@uscg.mil](mailto:Mark.E.Cutter@uscg.mil). If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

CFR Code of Federal Regulations

COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

#### A. Regulatory History and Information

On Thursday, September 26, 2013 the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (78 FR 59313). No Public meetings were requested or held. One formal written comment was received.

#### B. Basis and Purpose

The legal basis for this rule is 33 U.S.C. 1231, 1233; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, and 160.5; Public Law 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

Fireworks displays are held multiple times throughout the course of the year on U.S. navigable waters within Boston Inner Harbor. In the past, to ensure the protection of the maritime public and event participants from the hazards associated with these marine events, the Coast Guard has established a temporary safety zone around each display in response to a request from the fireworks display organizer. Establishing individual safety zones in this case-by-case manner has proved to be administratively cumbersome.

To relieve administrative overhead and better apprise the public on designated safety locations, this rule will establish safety zones that will remain in effect permanently but will be enforced when deemed necessary by the Captain of the Port (COTP). These permanent safety zones will be published in Title 33 of the Code of Federal Regulations.

By establishing a permanent regulation containing these designated safety zones, the Coast Guard will eliminate the need to establish a temporary final rule for each fireworks display that occurs in Boston Harbor. This will alleviate the unnecessary administrative costs and burden associated with continually establishing temporary final rules for each event year after year. Moreover, the Coast Guard expects that placing these safety zones in the Code of Federal Regulations on a permanent basis will leave the public better informed about the location of and conditions associated with recurring maritime fireworks displays.

#### C. Discussion of Comments, Changes, and the Final Rule

For the reason discussed above, the Coast Guard is establishing six

permanent safety zones in a new section of the Code of Federal Regulations, 33 CFR 165.119. Although these six safety zones will be in effect permanently, the associated regulations will only be enforced immediately before, during, and after a fireworks display. The Coast Guard anticipates that these safety zones will be enforced between the hours of 6:00 p.m. (e.s.t) and 1:00 a.m. (e.s.t), but the exact dates and times of enforcement will be published in the **Federal Register** via a Notice of Enforcement. The Coast Guard will also provide notice of enforcement through Local Notice to Mariners (LNM) and Broadcast Notice to Mariners (BNTM) prior to each event.

These six safety zones are the Charlestown Safety Zone, the Long Wharf Safety Zone, the Fan Pier Safety Zone, the Pier 6 Safety Zone, the North Jetty Safety Zone, and the Castle Island Safety Zone. The exact coordinates and sizes of each safety zone are listed below. The Coast Guard expects that during an enforcement period a safety zone will have a barge within the zone with a "FIREWORKS-STAY AWAY" sign on its port and starboard sides.

No vessels, except for fireworks barge and accompanying vessels, will be allowed to enter into, transit through, or anchor within a safety zone during an enforcement period without the permission of the COTP or the designated on-scene representative.

The one written comment received in the docket strongly supported the establishment of these Safety Zones. However, the comment contained two recommendations. First, the commenter recommended that the Coast Guard automatically enforce a safety zone anytime a fireworks display is going on within said safety zone rather than enforcing each zone only after requested to do so by a fireworks organizer. The commenter is correct that the NPRM states that the Coast Guard will enforce these safety zones "only upon request of a fireworks display organizer." The Coast Guard maintains continual awareness of planned fireworks displays while exercising its authority under 33 CFR Part 100 and in keeping with that authority, fireworks display organizers are required to submit to the Coast Guard a marine event application. As a result, the COTP becomes aware of a planned event and then has the option to enforce a safety zone for that fireworks display.

Although the Coast Guard expects to enforce these safety zones only after receiving a request, the Coast Guard may enforce them anytime that the COTP determines that it is necessary for the purposes of safety. This rule does