

zero days, and the IRS may make a third-party contact at any time after the third-party contact notice has been given to the taxpayer, if—

(A) The IRS officer or employee intends to make a third-party contact in connection with its investigation of potential liability for penalties under section 6715, 6715A, or 6720A of the Code; or

(B) The IRS officer or employee intends to make a third-party contact in connection with its exercise of authority under section 4083(d) of the Code.

(ii) *Nonjudicial sale redemption investigations.* The 45-day advance notice period is reduced to 10 days if the IRS officer or employee intends to make a third-party contact in connection with an investigation into a potential nonjudicial sale redemption.

(iii) *Examination cases involving certain issues in which statutory period for assessment expiring within one year or less.* The 45-day advance notice period is reduced to 10 days in cases under examination in which there is one year or less remaining before the expiration of the period for assessment under section 6501(a) of the Code determined with regard to extensions (statutory assessment period) for any period included in the examination as of the date the IRS intends to make a third-party contact if:

(A) The case involves an issue with respect to which the IRS would have the burden of proof in any court proceeding; and

(B) The IRS has requested that the taxpayer provide the IRS with an unrestricted, signed Form 872, *Consent to Extend the Time to Assess Tax*, to extend the statutory assessment period by a period necessary to complete the examination and other administrative actions, and the taxpayer has not provided the requested signed Form 872 within the time requested.

(iv) *Trust fund recovery penalty investigations in which statutory period for assessment expiring within one year or less.* The 45-day advance notice period is reduced to 10 days in investigations into potential liability for penalties under section 6672 of the Code if there is one year or less remaining before the expiration of the statutory assessment period for any period included in the investigation as of the date the IRS intends to make a third-party contact.

(v) *Statutory period for collection expiring within one year or less.* The 45-day advance notice period is reduced to 10 days if there is one year or less remaining in the time period (or, in cases involving multiple time periods, in any time period in the case) under

section 6502 of the Code within which the IRS may collect an assessed tax by levy or by a proceeding in court (statutory collection period) as of the date the IRS intends to make a third-party contact and either—

(A) The IRS intends to prepare and deliver to the Department of Justice (DOJ) a suit referral requesting that DOJ file suit to reduce assessments to judgment or to foreclose Federal tax liens before the expiration of the statutory collection period; or

(B) The revenue officer is unable to contact the taxpayer (as defined in paragraph (d)(5)(vi) of this section), or the taxpayer refuses to pay (as defined in paragraph (d)(5)(vii) of this section), and the revenue officer concludes that the advance notice period should be reduced in order to maximize the amount of unpaid tax that can be collected by levy within the time remaining before the statutory collection period expires.

(vi) *Unable to contact the taxpayer.* The revenue officer is unable to contact the taxpayer for purposes of paragraph (d)(5)(v)(B) of this section if the taxpayer fails to respond to the revenue officer's reasonable attempts to contact the taxpayer directly within the time requested by the revenue officer.

(vii) *Taxpayer refuses to pay.* The category of taxpayers who are considered to have refused to pay for purposes of paragraph (d)(5)(v)(B) of this section includes taxpayers described in this paragraph (d)(5)(vii). This paragraph (d)(5)(vii) is not an exhaustive list of taxpayers considered to have refused to pay, and taxpayers who engage in conduct not specifically described in this paragraph (d)(5)(vii) may be considered to have refused to pay.

(A) Taxpayers who have the ability to pay their currently due and owing taxes including required tax deposits and estimated tax payments and to pay their delinquent taxes through an alternative collection method but will not do so.

(B) Taxpayers who cannot pay currently due taxes or pay their delinquent taxes, but who have assets in excess of amounts exempt from levy that will yield net proceeds and are unwilling or unable to borrow against or liquidate these assets.

(C) Taxpayers who are accruing employment tax liabilities without making required tax deposits.

(D) Taxpayers who use frivolous tax arguments and continue to resist the requirements to file returns and pay their tax liability.

(E) Taxpayers who will not cooperate with the IRS (for example, taxpayers

that evade contact or will not provide financial information).

(F) Taxpayers who will not comply with the results of the IRS's financial analysis or will not enter into an installment agreement or offer in compromise.

(G) Taxpayers who are wage earners who have not paid their tax liability and will not adjust their withholdings to prevent future delinquencies.

(H) Taxpayers who are self-employed, have not paid their tax liability, and will not make estimated tax payments to prevent future delinquencies.

(I) Taxpayers who do not meet their commitments (without a valid reason) as required by an installment agreement, offer in compromise, or extension of time to pay.

\* \* \* \* \*

(g) *Applicability dates*—(1) *In general.* Except as provided for in paragraph (g)(2) of this section, this section is applicable on December 18, 2002.

(2) *Exceptions.* Paragraphs (a)(1) and (d) of this section apply to third-party contacts made on or after 30 days after [DATE OF PUBLICATION OF FINAL RULE].

**Douglas W. O'Donnell,**

*Deputy Commissioner for Services and Enforcement.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2024–0079]

RIN 1625–AA00

### Safety Zone; Gulf of Mexico, Marathon, FL

**AGENCY:** Coast Guard, Department of Homeland Security (DHS).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a temporary safety zone for certain waters in the Gulf of Mexico offshore Marathon, Florida. This action is necessary to provide for the safety of life on these navigable waters of Marathon, FL, during the 2024 Race World Offshore 7 Mile Grand Prix. The proposed rule prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Key West or a designated representative. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before April 8, 2024.

**ADDRESSES:** You may submit comments identified by docket number USCG–2024–0079 using the Federal Decision-Making Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the

**SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Marine Science Technician Second Class Hayden Hunt, Sector Key West Waterways Management Division, U.S. Coast Guard; telephone 305–292–8823, email [Hayden.B.Hunt@uscg.mil](mailto:Hayden.B.Hunt@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section  
 U.S.C. United States Code

**II. Background, Purpose, and Legal Basis**

On January 1, 2024, an organization notified the Coast Guard that they will be conducting the RWO 7 Mile Grand Prix high-speed boat race from 9 a.m. to 5 p.m. on April 27–28, 2024. The race will be conducted approximately 200 yards off of Marathon, FL. The Captain of the Port Sector Key West (COTP) has determined that potential hazards associated with the race would be a safety concern for anyone within a 500-yard radius of the racecourse.

The purpose of this rulemaking is to ensure the safety of personnel, vessels, and the marine environment in the navigable waters within the safety zone. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034. In addition, the Coast Guard is providing a shorter than usual comment period to obtain public input before the upcoming boat race starting on April 27, 2024. The Coast Guard will use the input to determine if any changes are needed to the safety zone for the event.

**III. Discussion of Proposed Rule**

The COTP is proposing a safety zone from 8 a.m. until 5 p.m. on April 27–28, 2024. The safety zone would cover certain waters in the Gulf of Mexico offshore Marathon, FL. The duration of the zone is intended to ensure the safety

of vessels and these navigable waters before, during, and after the 2024 Race World Offshore 7 Mile Grand Prix, scheduled from 9 a.m. until 5 p.m. on April 27–28, 2024. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

The regulatory text we are proposing appears at the end of this document.

**IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

*A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small, designated area of the Gulf of Mexico offshore Marathon for 9 hours each day. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

*B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 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. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the

reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*C. Collection of Information*

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

*D. Federalism and Indian Tribal Governments*

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 proposed rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would 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. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### E. 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 proposed rule would not result in such an expenditure, we do discuss the potential effects of this proposed rule elsewhere in this preamble.

### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination 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 proposed rule involves a safety zone to protect persons and vessels operating in the area adjacent to the safety zone. This zone will only be enforced for 18 hours over two days within a specified area of the Gulf of Mexico offshore of Marathon, FL. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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.

### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material

received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

**Submitting comments.** We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2024–0079 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

**Viewing material in docket.** To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

**Personal information.** We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

### 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 is proposing to amend 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:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T07–0079 to read as follows:

### § 165.T07–0079 Safety Zone; Gulf of Mexico, Marathon, FL.

(a) **Location.** The following area is a safety zone: All navigable waters within the following coordinates: Latitude 24°42.348’ N, longitude 081°08.377’ W, thence north offshore to latitude 24°42.979’ N, longitude 081°08.427’ W, thence east to latitude 24°43.433’ N, longitude 081°06.012’ W, thence south to latitude 24°43.028’ N, longitude 081°05.714’ W, thence southwest to latitude 24°42.840’ N, longitude 081°05.956’ W, thence west to latitude 24°42.796’ N, longitude 081°06.362’ W, located within the county of Monroe, FL. These coordinates are based on North American Datum.

(b) **Definitions.** As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Key West (COTP) in the enforcement of the safety zone.

(c) **Regulations.** (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP’s designated representative.

(2) To seek permission to enter, contact the COTP or the COTP’s representative by telephone at 305–292–8727. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP’s designated representative.

(d) **Enforcement period.** This section will be enforced each day from 8 a.m. until 5:00 p.m. on April 27, 2024 and April 28, 2024.

**Jason D. Ingram,**

*Captain, U.S. Coast Guard, Captain of the Port Sector Key West.*

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