



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2013-0030]

RIN 1625-AA08

Special Local Regulations; Patriot Challenge Kayak Race,
Ashley River; Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation for the Patriot Challenge Kayak Race in Charleston, SC. The race will take place on April 13, 2013, on the Ashley River. This special local regulation is necessary to insure the safety of life on navigable waters of the United States during the race. The special local regulation will temporarily restrict vessel traffic in a portion of the Ashley River, preventing non-participant vessels from entering the regulated areas.

DATES: This rule is effective from 10 a.m. until 12 p.m. on April 13, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2013-0030. 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 Chief Warrant Officer Christopher Ruleman, Sector Charleston Waterways Management, U.S. Coast Guard; telephone (843) 740-3184, e-mail christopher.l.ruleman@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

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

A. 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 it is impracticable. The Coast Guard did not receive necessary information about the event until January 22, 2013. As a result, the Coast Guard did not have sufficient time to publish an NPRM and to receive public comments prior to the event.

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. For the same reasons discussed in the preceding paragraph, a 30 day notice period would be impracticable. Additionally, a delayed effective date would be contrary to the public interest because immediate action is needed to minimize potential danger to the race participant's participant vessels, spectators and the general public.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to insure safety of life on navigable waters of the United States during three Charleston Race Week sailboat races.

On Saturday, April 13, 2013, the Patriot Challenge Kayak Race is scheduled to take place on the waters of the Ashley River and Charleston Harbor. The race will commence at Brittlebank Park, transit south in the Ashley River, head north between Shutes Folly Island and the Charleston peninsula, and then turn around in Tidewater Reach. The race will then return to Brittlebank Park by the same route. The event consists of a large number of kayakers whose speeds are incomparable to powerboats. There will be safety vessels preceding the first participant kayakers, and following the last participant kayakers. The event poses significant risks to participants, spectators, and the boating public because of the large number of paddlers and recreational vessels that are expected in the area of the event. The special local regulation is necessary to ensure the safety of participants, spectators, and vessels from the hazards associated with the event.

C. Discussion of Rule

The special local regulation will designate a temporary special local regulation, on the Ashley River and Charleston Harbor in Charleston, South Carolina. The special local regulation will be enforced from 10 a.m. until 12 p.m. on April 13, 2013. Persons and vessels may not enter, transit through, anchor in, or remain within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740-7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

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 or 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, 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 that Order.

The economic impact of this rule is not significant for the following reasons: (1) the rule will be in effect for only three hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the buffer zones without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the effective period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the buffer zones if authorized by the Captain of the Port Charleston or a designated representative; and (4) advance

notification will be made to the local maritime community via broadcast notice to mariners.

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. 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 Ashley River encompassed within the special local regulation between 10:00 a.m. and 12:00 p.m. on April 13, 2013. 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.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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 calls for no 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 have determined that it 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 INTFOrmATION 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 affect 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 M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have 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 special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from 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 § 100.T07-0030 to read as follows:

§ 100.T07-0030 Special Local Regulation; Patriot Challenge Kayak Race, Ashley River; Charleston, SC.

(a) Regulated Areas. The following regulated area is established as a special local regulation: All waters within a moving zone, beginning at Brittlebank Park, transiting south in the Ashley River, heading north between Shutes Folly Island and the Charleston peninsula, and then turning around in Tidewater Reach. The race will then return to Brittlebank Park by the same route in reverse order. The zone will at all times extend 75 yards both in front of the lead safety vessel preceding the first race participants; 75 yards behind the safety vessel trailing the last race participants; and at all times extending 100 yards on either side of participating race and safety vessels. Information regarding the identity of the lead safety vessel and the last safety vessel will be provided 1 day prior to the race via broadcast notice to mariners and marine safety information bulletins.

(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 Charleston in the enforcement of the regulated areas.

(c) Regulations.

(1) All persons and vessels, except those participating in the Patriot Challenge or serving as safety vessels, are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843-740-7050, or a designated representative via VHF radio on channel 16 to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such permission must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas through advanced notice via broadcast notice to mariners and by on-scene designated representatives.

(d) Effective Date. The rule is effective from 10:00 a.m. until 12:00 p.m. on April 13, 2013.

Dated: March 28, 2013

M. F. White
Captain, U.S. Coast Guard
Captain of the Port Charleston

[FR Doc. 2013-08392 Filed 04/09/2013 at 8:45 am;
Publication Date: 04/10/2013]