



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2015-0286]

RIN 1625-AA00

Safety Zone, Fall River Grand Prix, Mt. Hope Bay and Taunton River, Fall River, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the navigable waters of Mt. Hope Bay and the Taunton River in the vicinity of Fall River, MA, during the Fall River Grand Prix marine event from August 14-16, 2015. This safety zone is intended to safeguard mariners from the hazards associated with high-speed, high-performance motorboats competing in the event. Vessels are prohibited from entering into, transiting through, mooring, or anchoring within this safety zone during periods of enforcement unless authorized by the Captain of the Port (COTP), Southeastern New England or the COTP's designated

representative.

DATES: This rule is effective from 9 a.m., Friday, August 14, 2015 to 5 p.m., Sunday, August 16, 2015. It will be subject to enforcement between 9 a.m. and 5 p.m. on each of these three dates.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2015-0286. To view documents mentioned in the 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, contact Mr. Edward G. LeBlanc at Coast Guard Sector Southeastern New England, telephone 401-435-2351, email Edward.G.LeBlanc@uscg.mil. If you have questions on viewing the docket, please contact Ms. 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

On May 29, 2015, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone, Fall River Grand Prix, Mt. Hope Bay and Taunton River, Fall River, MA" in the Federal Register (80 FR 30637). We received no comments on the NPRM.

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. This provision authorizes an agency to make a rule effective less than 30 days after publication in the Federal Register when the agency for good cause finds that delaying the effective period for 30 days or more is "impracticable, unnecessary, or contrary to the public interest." 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 to safeguard participants and the public at the Fall River Grand Prix, which is scheduled for August 14-16, 2015. State and local government officials support the event, there is no known opposition to the event, and no comments opposing the

safety zone were received in response to the NPRM. Therefore, it is impracticable and unnecessary to make this rule effective 30 days or more after publication in the Federal Register.

B. Basis and Purpose

The legal basis for the rule is 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish regulatory safety zones.

The initial Fall River Grand Prix is a three-day event where high-speed, high-performance motorboats participate in controlled races within a well-defined water area. This safety zone is intended to encompass the racing area and will include a buffer between the racing motorboats and spectator craft to provide a margin of safety. As these races are part of a national series of events, governed by a national racing and safety organization (the U.S. Offshore Powerboat Association), and operated by experienced high-speed motorboat crews and support teams, they are expected to generate local and regional media coverage, and attract spectators on a number of recreational and excursion vessels.

The Coast Guard is establishing this safety zone, in

conjunction with the Fall River Grand Prix, to ensure the protection of the maritime public and event participants from the hazards associated with high-speed, high-performance motorboat racing.

C. Discussion of Comments, Changes and the Final Rule

No comments were received and no changes were made to the language contained in the NPRM.

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. Executive Order 12866 and Executive Order 13563

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, 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.

We expect the adverse economic impact of this rule to be minimal. Although this regulation may have some adverse impact on the public, the potential impact will be minimized for the following reasons: The safety zone will

be in effect for only a few hours each day for three consecutive days, and vessels will only be restricted from the zone in Mt. Hope Bay and the Taunton River in the vicinity of Fall River, MA during those limited periods when the races are actually ongoing; during periods when there is no actual racing (e.g., racing vessels are transiting from the pier to the racing site; downtime between races, etc.) vessels may be allowed to transit through the safety zone; there is an alternate route available for recreational vessels to the west of the safety zone that does not add substantial transit time and is already routinely used by mariners; many vessels, especially recreational vessels, may transit in all portions of the affected waterway except for those areas covered by the safety zone; and vessels may enter or pass through the affected waterway with the permission of the COTP or the COTP's representative.

Notification of the Fall River Grand Prix and the associated safety zone will be made to mariners through both the Southeastern Massachusetts and Rhode Island Port Safety Forums, local Notice to Mariners, event sponsors, and local media well in advance of the event.

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 received no comments on this rule from any small business, nor from the U.S Small Business Administration. 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 might be small entities: owners or operators of vessels intending to transit in Mt. Hope Bay and the Taunton River in the vicinity of Fall River, MA, during the Fall River Grand Prix marine event. The impact to these entities will not be significant, and this rule will not affect a substantial number of small entities, because the waterway will be restricted and the safety zone enforced only during those limited periods when the races are actually ongoing. During periods when there is no actual

racing (e.g., racing vessels are transiting from the pier to the racing site; downtime between races, etc.) vessels may be allowed to transit through the safety zone. Also, there is an alternate route available for recreational vessels to the west of the safety zone that does not add substantial transit time and is already routinely used by mariners. And many vessels, especially recreational vessels, may transit in all portions of the affected waterway except for those areas covered by the safety zone. And all vessels may enter or pass through the affected waterway with the permission of the COTP or the COTP's representative.

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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 under FOR FURTHER INFORMATION CONTACT.

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 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.

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 would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would 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 from Environmental Health Risks

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 would not create an environmental risk to health or risk to safety that might 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 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.

12. Energy Effects

This rule 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 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. This rule involves the establishment of a safety zone.

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 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 reads as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add §165.T01-0286 to read as follows:

§165.T01-0286 Safety Zone, Fall River Grand Prix, Mt. Hope Bay and Taunton River, Fall River, MA.

(a) Location. The following area is a safety zone: Mt. Hope Bay and the Taunton River navigation channel from approximately Mt. Hope Bay buoy R10 southwest of Brayton Point channel, and extending approximately two miles to the northeast up to and including Mt. Hope Bay buoy C17 north of the Braga Bridge. The safety zone is encompassed by the following coordinates:

<u>Corner</u>	<u>Latitude</u>	<u>Longitude</u>
SW	41° 41.40'N	71° 11.15'W
NW	41° 41.48'N	71° 11.15'W
SE	41° 42.33'N	71° 09.40'W
NE	41° 42.42'N	71° 09.47'W

(b) Enforcement Period. Vessels will be prohibited from entering this safety zone, when enforced, during the Fall

River Grand Prix marine event between 9 a.m. and 5 p.m. from Friday, August 14, 2015 to Sunday, August 16, 2015.

(c) Definitions. The following definitions apply to this section:

(1) Designated Representative. A "designated representative" is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port, Sector Southeastern New England (COTP), to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(3) Patrol Commander. The Coast Guard may patrol each safety zone under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF-FM (156.8 MHz) by the call sign "PATCOM."

(4) Spectators. All persons and vessels not registered

with the event sponsor as participants or official patrol vessels.

(d) Regulations. (1) The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the safety zone established in conjunction with the Fall River Grand Prix, Taunton River, vicinity of Fall River, MA. These regulations may be enforced for the duration of the event.

(2) No later than 8 a.m. each day of the event, the Coast Guard will announce via Safety Marine Information Broadcasts and local media the times and duration of each race scheduled for that day, and the precise area(s) of the safety zone that will be enforced.

(3) Vessels may not transit through or within the safety zone during periods of enforcement without Patrol Commander approval. Vessels permitted to transit must operate at a no-wake speed, in a manner which will not endanger participants or other crafts in the event.

(4) Spectators or other vessels shall not anchor, block, loiter, or impede the movement of event participants or official patrol vessels in the safety zone unless authorized by an official patrol vessel.

(5) The Patrol Commander may control the movement of all vessels in the safety zone. When hailed or signaled by an

official patrol vessel, a vessel shall come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(6) The Patrol Commander may delay or terminate the Fall River Grand Prix at any time to ensure safety. Such action may be justified as a result of weather, traffic density, spectator operation or participant behavior.

Dated: July 8, 2015

RICHARD J. SCHULTZ.
Commander, U.S. Coast Guard
Acting Captain of the Port Southeastern New England
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