



BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2024-0207]

RIN 1625-AA08

Special Local Regulation; Clear Lake, Clear Creek, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend its regulations for annual marine events in the Sector Houston-Galveston area of responsibility. This proposed rulemaking would prohibit persons and vessels not participating in the event from being within the specified zones unless authorized by the Captain of the Port Houston-Galveston 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 **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by docket number USCG-2024-0207 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 Lieutenant Junior Grade Linda I Duncan, Sector Houston-Galveston Waterways Management Division, U.S. Coast Guard; telephone 713-398-5823, email houstonwwm@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On March 4, 2024, an organization notified the Coast Guard that it will be conducting the 17th annual high speed boat race from 8 a.m. to noon on June 21, 2024. The boat race is to be held in the waters of Clear Lake, in Clear Creek, TX. The Captain of the Port Houston-Galveston (COTP) has determined that potential hazards associated with the power boat race will be a safety concern for anyone within the Pre-Stage Zone, Approach Zone, Course Run Zone, and Shut-Down Zone before, during, and after the scheduled event.

The Texas Outlaw Challenge Boat Race, in Clear Lake, Clear Creek, TX, occurs on an annually recurring basis. Historically, the Coast Guard has established annual temporary final regulations for this marine event. This proposed rule would consistently inform the public in a timely manner through permanent publication in Title 33 of the

Code of Federal Regulations. This proposed rule would add a recurring marine event requiring a special local regulation to TABLE 3 of 33 CFR § 100.801—Sector Houston-Galveston Annual and Recurring Marine Events. By establishing permanent regulations for this marine event, the Coast Guard would eliminate the need to establish temporary rules on an annual basis and thereby limit the costs associated with cumulative regulations. The purpose of this rulemaking is to protect personnel, vessels, and the marine environment in the navigable waters within the Pre-Stage Zone, Approach Zone, Course Run Zone, and Shut-Down Zone before, during and after the annual Texas Outlaw Challenge power boat race in Clear Lake, TX. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70041.

In order to allow a 30-day public comment period, the Coast Guard anticipates issuing a final rule with an effective date less than 30 days after publication in the Federal Register. Should that occur, we will explain our good cause for doing so in that publication, as required by 5 U.S.C. 553(d)(3).

III. Discussion of Proposed Rule

The COTP is proposing to establish a special local regulation from 8 a.m. to noon on a Friday of the third week of June. The special local regulation will encompass five different zones to include the Pre-Stage Zone, Approach Zone, Course Run Zone, Shut-Down Zone, and the Spectator Zone as described below:

Pre-Stage Zone: This area is the pre-staging area for participating vessels to line up. It will include all waters within the following areas 29° 33.13N, 095° 01.84W thence to 29° 33.12N, 095° 01.89W thence to 29° 33.23N, 095° 01.96W thence to 29° 33.13N, 095° 01.84W.

Approach Zone: $\frac{1}{4}$ mile distance required for participating vessels to obtain the minimum 40 mph requirement for course entry. This will be a straight line to begin at approximately $29^{\circ} 33.256\text{N}$, $095^{\circ} 01.89\text{W}$ and end at approximately $29^{\circ} 33.33\text{N}$, $095^{\circ} 02.15\text{W}$.

Course Run Zone: $\frac{3}{4}$ mile distance where participating vessels will conduct their high-speed run. This will be a straight line to begin at approximately $29^{\circ} 33.33\text{N}$, $095^{\circ} 02.16\text{W}$ and end at approximately $29^{\circ} 33.53\text{N}$, $095^{\circ} 02.98\text{W}$.

Shut-Down Zone: 1 mile distance where participating vessels will be allowed to slow their speeds back to an idle. This will be a straight line to begin at approximately $29^{\circ} 33.53\text{N}$, $095^{\circ} 02.98\text{W}$ and end at approximately $29^{\circ} 33.74\text{N}$, $095^{\circ} 04.1\text{W}$.

Spectator Zone: All vessels that will be viewing the event will be required to stay within a designated area. The sponsor is responsible for marking the spectator zone with 4 buoys on the outer corners and ensuring that all vessels within the area are anchored and remain in the area during all ongoing high-speed runs. The following coordinates are the approximate location of the Spectator Zone: $29^{\circ} 33.15\text{N}$, $95^{\circ} 02.34\text{W}$, thence to $29^{\circ} 33.11\text{N}$, $95^{\circ} 02.35\text{W}$, thence to $29^{\circ} 33.21\text{N}$, $95^{\circ} 02.50\text{W}$, thence to $29^{\circ} 33.15\text{N}$, $95^{\circ} 02.53\text{W}$.

No vessel or person would be permitted to enter the established zones without obtaining permission from the on-water Safety-Officer or designated representative.

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 Houston-Galveston in the enforcement of the regulated areas.

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 would be able to safely transit around this safety zone which would impact a small, designated area of Clear Lake for 4 hours during the morning when vessel traffic is normally low. 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 marine event and special local regulation lasting only 4 hours that would prohibit entry within 100 feet of the boat course. Normally such actions are categorically excluded from further review under paragraph L61 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- 2024-0207 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 webpage. 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 100

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 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. In § 100.801, amend Table 3, by adding item 7 to read as follows:

§ 100.801 Annual Marine Events in the Eighth Coast Guard District.

TABLE 3 OF § 100.801—SECTOR HOUSTON-GALVESTON ANNUAL AND RECURRING MARINE EVENTS

7. Friday of the 3 rd week of June	Texas Outlaw Challenge/Offshore Thunder Productions LLC	Clear Lake, TX	All waters within 100 feet of the Pre-Stage Zone including all waters within the following areas 29° 33.13N, 095° 01.84W, thence to 29° 33.12N, 095° 01.89W, thence to 29° 33.23N, 095° 01.96W, thence to 29° 33.13N, 095° 01.84W; the Approach Zone comprised of a
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		<p>straight line to begin at approximately 29° 33.256N, 095° 01.89W and end at approximately 29° 33.33N, 095° 02.15W; the Course Run Zone comprised of a straight line to begin at approximately 29° 33.33N, 095° 02.16W and end at approximately 29° 33.53N, 095° 02.98W; the Shut-Down Zone comprised of a straight line to begin at approximately 29° 33.53N, 095° 02.98W and end at approximately 29° 33.74N, 095° 04.1W; and the Spectator Zone located within the following coordinates; 29° 33.15N, 95° 02.34 W, thence to 29° 33.11N, 95° 02.35W, thence to 29° 33.21N, 95° 02.50W, thence to 29° 33.15N, 95° 02.53W.</p>
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Dated: May 07, 2024.

Keith M. Donohue,

Captain, U.S. Coast Guard,

Captain of the Port Sector Houston-Galveston.

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