



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2014-0061]

RIN 1625-AA00

Safety Zones; Annually Recurring Events in Coast Guard

Southeastern New England Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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SUMMARY: The Coast Guard is amending the safety zones for the "RI Air National Guard Air Show" and the "Swim Buzzards Bay" events. This amendment adds an additional month to the eligible dates for which the Safety Zones apply to each of these two events.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-0061. 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, call Mr. Edward G. LeBlanc at Coast Guard Sector Southeastern New England, 401-435-2351. If you have questions on viewing the docket, please call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On April 8, 2014, we published a notice of rulemaking (NPRM) entitled "Safety Zones; Annually Recurring Events in Coast Guard Southeastern New England Captain of the Port Zone" in the Federal Register (79 FR 19302). We received no comments on the rule.

## B. Basis and Purpose

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

On May 22, 2012, the Coast Guard published a Final Rule in the Federal Register (77 FR 30188-30194) that amended certain established permanent safety zones for numerous recurring marine events within Coast Guard Sector Southeastern New England. For each recurring marine event a range of eligible dates is included in the Table to 33 CFR 165.173. The Coast Guard is amending the safety zones at section 6.2 (RI Air National Guard Air Show) and 7.12 (Swim Buzzards Bay) of the Table contained in 33 CFR 165.173. This amendment adds an additional month to the eligible dates for which the safety zones at 33 CFR 165.173 apply to each of these two events.

## C. Background

For the Air Show, the month of May is added to June and July, so that the safety zone at 33 CFR 165.173 now applies to one weekend in May, June, or July, rather than just June or July as was applicable under the original regulation being amended.

For the Swim, the month of June is added to July and August, so that the safety zone at 33 CFR 165.173 applies to one Saturday or Sunday in June, July, or August, rather than just July or August as was applicable under the original regulation being amended.

These revisions provide a larger window of eligible dates for the sponsors of each event to better coordinate with other waterway users, major participants, and state and local safety officials.

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

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

#### E. 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, 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 economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation may have some impact on the public, the potential impact will be minimized for the following reasons: The Air Show will be limited to only a single three-day weekend period (Friday, Saturday, and Sunday) potentially in the month of May, and the Air Show has occurred annually for many years with no negative public comments or concerns regarding impacts to navigation. The Swim will be limited to only a single Saturday or Sunday potentially in the month of June, and the Swim has occurred annually for many years with few public concerns regarding impacts to navigation, and those concerns have been readily and satisfactorily resolved.

Notifications are made to the local maritime community through the Local Notice to Mariners well in advance of the Air Show and Swim. No new or additional restrictions are imposed on vessel traffic.

## 2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. 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 from the Small Business Administration on this rule.

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 affects the following entities, some of which might be small entities: owners or operators of vessels intending to transit, fish, or anchor in the area of the Air Show as listed in section 6.2 of the Table to 33 CFR 165.173.

The rule will not have a significant economic impact on a substantial number of small entities for the following reasons: The Air Show is limited to only a single three-day weekend period (Friday, Saturday, and Sunday) during the entire eligible period (May, June, July), and the Air Show has occurred annually for many years with no negative public concerns regarding impacts to navigation. The Swim is limited to a single Saturday or Sunday during the entire eligible period (June, July, August), and the Swim has occurred annually for many years with few negative public concerns regarding impacts to navigation, and those

concerns have been readily and satisfactorily resolved.

Notifications are made to the local maritime community through the Local Notice to Mariners well in advance of the Air Show and Swim. No new or additional restrictions are imposed on vessel traffic.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), in the NPRM we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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 does not result in such 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 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 will 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 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 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 appears to be one of a category of

actions which do not individually or cumulatively have a significant effect on the human environment.

Any comments made in response to the previously published Notice of Proposed Rulemaking for this action were also considered in arriving at this conclusion. This rule is categorically excluded, under figure 2-1, paragraphs (34) (g) and (34) (h) of the Instruction since it involves establishment of safety zones for annually recurring marine events, including marine related fireworks events and special local regulations for regattas. An environmental analysis checklist and a categorical exclusion determination are available in the docket where 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, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

§165.173 [AMENDED]

2. Amend the table in § 165.173 as follows:
- a. Add a new category entitled "5.0 MAY" below the category "1.0 365 DAY JANUARY-DECEMBER" and above the category "6.0 JUNE";
  - b. Redesignate item 6.2, "RI National Guard Air Show" as item 5.1, and locate it beneath the category "5.0 MAY";
  - c. Redesignate item 7.12 "Swim Buzzards Bay" as item 6.2, and locate it below item 6.1 "Oak Bluffs Summer Solstice", and reserve item 7.12;
  - d. Revise the entry for "Date" in newly redesignated item 5.1, "RI Air National Guard Air Show" to read "Date:

One weekend (Friday, Saturday, and Sunday) in May, June, or July, as announced in the local Notice to Mariners."; and  
e. Revise the entry for "Date" in newly redesignated item 6.2 "Swim Buzzards Bay" to read "Date: One Saturday or Sunday in June, July, or August, as announced in the local Notice to Mariners."

Dated: May 21, 2014.

J. T. Kondratowicz,  
Captain, U.S. Coast Guard,  
Captain of the Port Southeastern New England.

[FR Doc. 2014-14238 Filed 06/17/2014 at 8:45 am;  
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