



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2015-0178]

RIN 1625-AA00

Safety Zone, Volvo Ocean Race Newport; East Passage,
Narragansett Bay, RI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone in the navigable waters of the East Passage, Narragansett Bay, RI, during the Volvo Ocean Race Newport marine event. This safety zone is intended to safeguard mariners from the hazards associated with high-speed, high-performance sailing vessels competing in inshore races on the waters of the East Passage, Narragansett Bay, RI. Vessels would be 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: Comments and related material must be received by the Coast Guard on or before [**INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. Requests for public meetings must be received by the Coast Guard on or before [**INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

ADDRESSES: You may submit comments identified by docket number USCG-2015-0178 using any one of the following methods:

(1) *Federal e-Rulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail or Delivery:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on

this proposed rule, contact Mr. Edward G. LeBlanc, Waterways Management Division at Coast Guard Sector Southeastern New England, telephone 401-435-2351, e-mail Edward.G.LeBlanc@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, 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. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking (**USCG-2015-0178**), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material

online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2015-0178] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period

and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2015-0178) 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.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe

a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

The Coast Guard has not promulgated a rule for past iterations of this event.

C. Basis and Purpose

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

This rule is necessary to provide for the safety of life and navigation, for both participants and spectators involved with the Volvo Ocean Race Newport in the vicinity of Newport, RI.

D. Discussion of Proposed Rule

The Volvo Ocean Race is a 40,000 mile, eight-month, round the world race with stops in several major international sailing ports. As part of the event, high-speed sailing vessels will participate in daily inshore races from 12-17 May, 2015, in the East Passage of Narragansett Bay in the vicinity of Newport, RI. As these

races are part of a world-wide event they are expected to generate national and international 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 Volvo Ocean Race Newport, to ensure the protection of the maritime public and event participants from the hazards associated with large-scale marine events. The Coast Guard anticipates some concern with the proposed safety zone by mariners, especially commercial vessel operators, that vessel transits through the East Passage of Narragansett Bay may be restricted for a portion of each day for 6 consecutive days.

The East Passage of Narragansett Bay is the site of many marine events each year. As a result, vessel traffic, particularly recreational vessel traffic, is frequently required to utilize the West Passage of Narragansett Bay. Accordingly, the West Passage of Narragansett Bay may be a viable option for recreational vessels as well as many tug/barge combinations and smaller commercial vessels during the Volvo Ocean Race Newport.

Regardless, the Coast Guard anticipates that some commercial and/or recreational vessels may still need to transit the East Passage of Narragansett Bay for a variety

of reasons, including destination, familiarity with the waterway, tide restrictions, etc. Vessels may be able to continue transits through the East Passage, even during enforcement of the safety zone, as there will be sufficient room for most recreational vessels, and some commercial vessels, to pass to the west of the safety zone. Also, the Coast Guard routinely works with the local marine pilot organization and shipping agents to coordinate vessel transits during marine events in the East Passage, and will continue to do so for the entire event to avoid major interruptions to shipping schedules.

The Coast Guard proposes to add a temporary safety zone under 33 CFR 165.T01-0178. The safety zone will extend from Newport Harbor in the vicinity of Fort Adams, across the East Passage to west of Rose Island, and will encompass the East Passage south to the vicinity of Castle Hill. The safety zone will be enforced only during times of actual sailing vessel racing.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Executive Order 12866 and Executive Order 13563

This proposed 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 proposed 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: Although the safety zone will be in effect for 8 hours each day for 6 consecutive days, vessels will only be restricted from the zone in the East Passage of Narragansett Bay 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, the West Passage of Narragansett Bay, that does not add substantial transit time, is already routinely used by mariners, and will not be affected by this safety zone; many vessels, especially recreational vessels, may transit in all portions of the affected waterway except for those

areas covered by the proposed 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 Volvo Ocean Race Newport and the associated safety zone will be made to mariners through the Rhode Island Port Safety Forum, 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 certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: owners or operators of vessels intending to transit, fish, or anchor in the East Passage of Narragansett Bay, RI, during the

Volvo Ocean Race Newport sailing races.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this 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.

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 proposed 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. 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.

4. Collection of Information

This proposed rule would call 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 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.

12. Energy Effects

This proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed 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 made a preliminary determination that 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.

A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under ADDRESSES. This proposed rule involves the establishment of a temporary safety zone in conjunction with the Volvo Ocean Race Newport event, a high-speed, high-performance sailing vessel racing event. It appears that this action will qualify for Coast Guard Categorical Exclusion (34)(g), as described in figure 2-1 of the Commandant Instruction.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed 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 proposes 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: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Add §165.T01-0178 to read as follows:

§165.T01-0178 Safety Zone for Volvo Ocean Race Newport, East Passage, Narragansett Bay, RI.

(a) Location. The following area is a safety zone: From an east-west line across the East Passage of Narragansett Bay at the Newport Bridge south to the COLREGS demarcation line between Brenton Pt and Beavertail Pt.

(b) Enforcement period. Vessels will be prohibited from entering this safety zone, when enforced, during the Volvo Ocean Race Newport sailing vessel racing event between 9 a.m. and 5 p.m. from Tuesday, May 12, 2015 to Sunday, May 17, 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 §165.23 as well as the following regulations apply to the safety zone established in conjunction with the Volvo Ocean Race Newport, East Passage, Narragansett Bay, Newport, RI. 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 sailing 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 Volvo Ocean Race at any time to ensure safety. Such action may be justified as a result of weather, traffic density, spectator operation or participant behavior.

Dated: March 27, 2015.

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