

**Subpart C—Treasury Offset Program for Collection of Debts**

Dated: July 13, 2009.

Eric H. Holder, Jr.,  
Attorney General.

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100**

[Docket No. USCG-2009-0448]

RIN 1625-AA08

**Special Local Regulation; Summer Marine Events, Coastal Massachusetts**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing special local regulations during various swim and high speed race events to be held along the coast of Massachusetts, June through September 2009. These special local regulations are necessary to provide for the safety of life on navigable waters during the events. This action is intended to restrict vessel traffic before, during and after each event.

**DATES:** *Effective Dates:* This rule is effective from June 21, 2009, through September 5, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0448 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0448 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Ensign Marie Haywood, Coast Guard Sector Boston, Waterways Management; telephone 617-223-5160, e-mail [michele.m.haywood@uscg.mil](mailto:michele.m.haywood@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager,

Docket Operations; telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:****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 the Coast Guard did not receive adequate notice from the events’ sponsors to submit a notice of proposed rulemaking (NPRM) and any delay in the regulation’s effective date could expose the public to unnecessary danger and therefore be contrary to the public’s 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**, for the reasons same late notice reasons described above.

**Background and Purpose**

This temporary rule establishes special local regulations concerning nine marine events. Several Massachusetts communities are holding marine events throughout the summer of 2009. These special local regulations will protect the maritime public from the dangers inherent in such events. The Captain of the Port does not anticipate any negative impact on vessel traffic due to implementation of these regulated areas. The regulation will protect the public by prohibiting entry into or movement within the proscribed portions of various coastal waterways during the marine events.

Marine traffic may transit outside of the area during the effective period. Public notifications will be made prior to and during the effective period of each area via Broadcast and Local Notice to Mariners.

**Discussion of Rule**

This rule is necessary to ensure the safety of vessels and people during annual swim and high speed races in the Captain of the Port Boston area of responsibility that may pose a hazard to the public. This rule establishes temporary regulations at 33 CFR part 100.35T-01-0448. The regulated areas

will be enforced only immediately before, during, and after events that pose hazard to the public, and only upon notice by the Captain of the Port.

The Captain of the Port will inform the public about the details of each swim and high speed race covered by these special local regulations using a variety of means, including, but is not limited to, Broadcast Notices to Mariners and Local Notices to Mariners.

**Regulatory Analyses**

We developed this 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.

**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 that Order. The Office of Management and Budget has not reviewed it under that Order.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would 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 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 would be in effect for a period of less than two hours to a maximum of eleven hours on days events are held, vessel traffic can navigate around the special local regulation area during the effected period, vessels may be permitted to pass through the area with the permission of the Captain of the Port, and advance notification via broadcast notice to mariners and Local Notice to Mariners will be made before and during the effective period.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the 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.

### 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).

### 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.

### 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 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.

### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### 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.

### 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.

### 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.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

### Environment

We have analyzed this rule under Department of Homeland Security

Management Directive 0023.1 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)(h), of the Instruction. This rule involves special local regulation issued in conjunction with a marine event permit.

Under figure 2-1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination will be in the docket for review.

### 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 is amending 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; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 100.35-T01-0448 to read as follows:

#### § 100.35-T01-0448 Summer Marine Events 2009, Coastal Massachusetts.

(a) *General.* Special Local Regulations are established for the marine events described in paragraphs (a)(1) through (a)(9) described herein:

(1) *Cohasset Triathlon, Sandy Beach, Cohasset, MA.* (i) All waters in the vicinity of Cohasset Harbor, from surface to bottom, within a 200-yard radius around Sandy Beach, approximate location 42°15'50" N, 070°48'00" W.

(ii) *Enforcement date.* This rule will be enforced from 7:45 a.m. through 9 a.m. on June 28, 2009.

(2) *Swim Across America, Boston, MA to Boston Light, MA.* (i) All waters of Boston Harbor, from surface to bottom, within a 100-yard radius around the swimmers swimming from Rowes Wharf to Boston Light.

(ii) *Enforcement date.* This rule will be enforced from 7 a.m. through 3 p.m. on July 17, 2009.

(3) *Swim Across America, Nantasket Beach, Hull, MA.* (i) All waters of Nantasket Beach, from surface to bottom, within a four hundred (400)

yard radius of approximate position 42°16'35" N, 070°51'15" W.

(ii) *Enforcement date.* This rule will be enforced from 9 a.m. through 11 a.m. on July 18, 2009.

(4) *Charles River One Mile Swim, Charles River, Boston, MA.* (i) All waters of Charles River, from surface to bottom, between the Longfellow Bridge and the Harvard Bridge.

(ii) *Enforcement date.* This rule will be enforced from 8 a.m. through 9 a.m. on June 21, 2009.

(5) *Toyota/Sea Doo US Regional Championships, Salisbury Beach, Salisbury, MA.* (i) The following area is a regulated area: All waters of the Atlantic Ocean near Salisbury Beach, Salisbury, MA, from surface to bottom, within a one hundred (100) yard radius of the race course site located at approximate position 42° 51'34" N, 070° 48'34" W.

(ii) *Enforcement date.* This rule will be enforced daily from 6:30 a.m. through 5 p.m. on June 27 through June 28, 2009.

(6) *The Iron Distance Triathlon at Plymouth Rock, Plymouth Inner Harbor, Plymouth, MA.* (i) All waters of Plymouth Inner Harbor, from surface to bottom, within a four hundred (400) yard radius of approximate position 41°57'50" N, 070°39'42" W.

(ii) *Enforcement date.* This rule will be enforced from 7 a.m. through 9:30 a.m. on September 6, 2009.

(7) *The Mayflower Triathlon at Plymouth Rock, Plymouth Inner Harbor, Plymouth, MA.* (i) All waters of Plymouth Inner Harbor, from surface to bottom, within a four hundred (400) yard radius of approximate position 41°57'50" N, 070°39'42" W.

(ii) *Enforcement date.* This rule will be enforced from 7:30 a.m. through 12:30 p.m. on August 31, 2008.

(8) *31st Annual Celebrate the Clean Harbor Swim, Gloucester Harbor, Gloucester, MA.* (i) All waters of Gloucester Harbor, from surface to bottom, within a four hundred (400) yard radius of approximate position 41°35'35" N, 070°39'45" W.

(ii) *Enforcement Date.* This rule will be enforced from 10 a.m. through 11 a.m. on September 5, 2009.

(9) *Gloucester Triathlon, Western Harbor, Gloucester, MA.* (i) All waters of Western Harbor, from surface to bottom, starting at the beach at position 42°36'34" N, 070°40'02" W, thence to 42°36'29" N, 070°40'04" W, thence to 42°36'28" N, 070°40'00" W, thence to the beach at position 42°36'33" N, 070°39'58" W.

(ii) *Enforcement Date.* This rule will be enforced from 10 a.m. through 11 a.m. on September 5, 2009.

(b) *Definition.* As used in this section, "designated representative" means any Coast Guard commissioned, warrant, or petty officer, or any federal, state, or local law enforcement officer authorized to enforce this regulation on behalf of the Coast Guard Captain of the Port (COTP).

(c) *Regulations.* (1) Entry into or remaining in the special local regulation area described in paragraph (a) of this section is prohibited unless authorized by the Coast Guard Captain of the Port (COTP) Boston, or the COTP's designated representative.

(2) Persons desiring to transit the area covered by the special local regulations may contact the Captain of the Port at telephone number 617-223-3201 or via on-scene patrol personnel on VHF channel 16 to seek permission to do so. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: June 18, 2009.

John N. Healey,

Captain, U.S. Coast Guard, Captain of the Port, Boston.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0565]

RIN 1625-AA00

#### Safety Zone; Atlantic Intracoastal Waterway, Oak Island, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of the Atlantic Intracoastal Waterway at Oak Island, North Carolina. The safety zone is necessary to provide for the safety of life on navigable waters during the installation of bridge girders at the new high-level fixed highway bridge at the second crossing to Oak Island, North Carolina.

**DATES:** This rule is effective from 7 a.m. on July 22, 2009 through 5:30 p.m. on August 12, 2009.

**ADDRESSES:** Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0565 and are available online by going to <http://www.regulations.gov>, selecting the

Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0565 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail CWO4 Stephen Lyons, Waterways Management Division Chief, Coast Guard Sector North Carolina; telephone (252) 247-4525, e-mail [Stephen.W.Lyons2@uscg.mil](mailto:Stephen.W.Lyons2@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### 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)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to protect the maritime public from the hazards associated with the installation of bridge girders, including the use of heavy equipment and falling debris. The necessary information to determine whether the installation project posed a threat to persons and vessels was not provided with sufficient time to publish an NPRM. For the safety concerns noted, it is in the public interest to have this regulation in place during the girder installation.

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**. Delaying the effective date would be contrary to public interest, since immediate action is needed to ensure the public's safety from the hazards noted above.