

D. Every felony of which the applicant has been convicted or any ongoing prosecution.

(iv) A copy of the eligibility determination made under § 556.5 of this part.

#### **§ 556.7 Notice.**

(a) All notices under this part shall be provided to the Commission through the appropriate Regional office.

(b) Should a tribe wish to submit notices electronically, it should contact the appropriate Regional office for guidance on acceptable document formats and means of transmission.

#### **§ 556.8 Compliance with this part.**

All tribal gaming ordinances and ordinance amendments approved by the Chair prior to the effective date of this part and that reference this part, do not need to be amended to comply with this part. All future ordinance submissions, however, must comply.

2. Revise Part 558 to read as follows:

### **PART 558—GAMING LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS**

Sec.

558.1 Scope of this part.

558.2 Review of notice of results for a key employee or primary management official.

558.3 Notification to NIGC of license issuance and retention obligations.

558.4 Notice of disqualifying information and licensee right to a hearing.

558.5 Submission of notices.

558.6 Compliance with this part.

**Authority:** 25 U.S.C. 2706, 2710, 2712.

#### **§ 558.1 Scope of this part.**

Unless a tribal-state compact assigns responsibility to an entity other than a tribe, the licensing authority for class II or class III gaming is a tribal authority. The procedures and standards of this part apply only to licenses for primary management officials and key employees. This part does not apply to any license that is intended to expire within 90 days of issuance.

#### **§ 558.2 Review of notice of results for a key employee or primary management official.**

(a) Upon receipt of a complete notice of results for a key employee or primary management official as required by 25 CFR 556.6(b)(2), the Chair has 30 days to request additional information from a tribe concerning the applicant or licensee and to object.

(b) If the Commission has no objection to issuance of a license, it shall notify the tribe within thirty (30) days of receiving notice of results pursuant to § 556.6(b)(2).

(c) If, within the 30 day period described in § 558.3(a) of this part, the Commission provides the tribe with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official applicant for whom the tribe has provided a notice of results, the tribe shall reconsider the application, taking into account the objections itemized by the Commission. The tribe shall make the final decision whether to issue a license to such applicant.

(d) If the tribe has issued the license before receiving the Commission's statement of objections, notice and hearing shall be provided to the licensee as provided by § 558.4.

#### **§ 558.3 Notification to NIGC of license issuance and retention obligations.**

(a) After a tribe has provided a notice of results of the background check to the Commission, a tribe may license a primary management official or key employee.

(b) A gaming operation shall not employ a key employee or primary management official who does not have a license after ninety (90) days.

(c) If a tribe does not license an applicant—

(1) The tribe shall notify the Commission; and

(2) Shall forward copies of its eligibility determination under this section and investigative report (if any) under § 556.6(b)(1) to the Commission for inclusion in the Indian Gaming Individuals Record System.

(d) Within 30 days after the issuance of the license, a tribe shall notify the Commission of its issuance.

(e) A tribe shall retain the following for inspection by the Chair or his or her designee for no less than three years from the date of termination of employment:

- (1) Applications for licensing;
- (2) Investigative reports; and
- (3) Eligibility determinations.

#### **§ 558.4 Notice of information impacting eligibility and licensee's right to a hearing.**

(a) If, after the issuance of a gaming license, the Commission receives reliable information indicating that a key employee or a primary management official is not eligible for employment under § 556.5, the Commission shall notify the issuing tribe of the information.

(b) Upon receipt of such notification under paragraph (a) of this section, a tribe shall immediately suspend the license and shall provide the licensee with written notice of suspension and proposed revocation.

(c) A tribe shall notify the licensee of a time and a place for a hearing on the proposed revocation of a license.

(d) A right to a hearing under this part shall vest only upon receipt of a license granted under an ordinance approved by the Chair.

(e) After a revocation hearing, a tribe shall decide to revoke or to reinstate a gaming license. A tribe shall notify the Commission of its decision within 45 days of receiving notification from the Commission pursuant to subsection (a).

#### **§ 558.5 Submission of notices.**

(a) All notices under this part shall be provided to the Commission through the appropriate Regional office.

(b) Should a tribe wish to submit notices electronically, it should contact the appropriate Regional office for guidance on acceptable document formats and means of transmission.

#### **§ 558.6 Compliance with this part.**

All tribal gaming ordinances and ordinance amendments that have been approved by the Chair prior to the effective date of this section and that reference this part do not need to be amended to comply with this section. All future ordinance submissions, however, must comply.

Dated: December 16, 2011, Washington, DC.

**Tracie L. Stevens,**  
*Chairwoman.*

**Steffani A. Cochran,**  
*Vice-Chairwoman.*

**Daniel J. Little,**  
*Associate Commissioner.*

[FR Doc. 2011–32760 Filed 12–21–11; 8:45 am]

**BILLING CODE 7565–02–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 100**

[Docket No. USCG–2011–1095]

**RIN 1625–AA08**

#### **Special Local Regulations; Patriot Challenge Kayak Race, Ashley River, Charleston, SC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish special local regulations on the Ashley River in Charleston, South Carolina during the Patriot Challenge Kayak Race on Saturday, April 28, 2012. Approximately 150 paddle boats are

anticipated to participate in the Patriot Challenge Kayak Race. Participant paddle boats will include: kayaks, canoes, and paddleboards. These special local regulations are necessary to provide for the safety of life on navigable waters of the United States during the race. The special local regulations consist of a series of moving buffer zones around participant vessels as they transit the Ashley River from Brittlebank Park to Tidewater Reach and back to Brittlebank Park. Persons and vessels that are not participating in the race are prohibited from entering, transiting through, anchoring in, or remaining within any of the buffer zones unless authorized by the Captain of the Charleston or a designated representative.

**DATES:** Comments and related material must be received by the Coast Guard on or before February 10, 2012. Requests for public meetings must be received by the Coast Guard on or before January 18, 2012.

**ADDRESSES:** You may submit comments identified by docket number USCG–2011–1095 using any one of the following methods:

(1) *Federal eRulemaking Portal:*  
<http://www.regulations.gov>.

(2) *Fax:* (202) 493–2251.

(3) *Mail:* 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.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

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

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Ensign John Santorum, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email [John.R.Santorum@uscg.mil](mailto:John.R.Santorum@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

#### **SUPPLEMENTARY INFORMATION:**

#### **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.

#### **Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–1095), 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 [www.regulations.gov](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 email 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>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rule” and insert “USCG–2011–1095” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. 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.

#### **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>, click on the “read comments” box, which will then become highlighted in blue. In the “Keyword” box insert “USCG–2011–1095” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### **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).

#### **Public Meeting**

We do not now plan to hold a public meeting, but you may submit a request for one on or before February 10, 2012 using one of the four 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**.

#### **Basis and Purpose**

The legal basis for the proposed rule is the Coast Guard’s authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the proposed rule is to insure safety of life on navigable waters of the United States during the Patriot Challenge Kayak Race.

#### **Discussion of Proposed Rule**

On Saturday, April 28, 2012, the Patriot Challenge Kayak Race is scheduled to take place on the waters of the Ashley River in Charleston, South Carolina. The race will begin at Brittlebank Park, transit southeast on the Ashley River, head north between Shutes Folly Island and the Charleston peninsula, and then turn around in Tidewater Reach. The race will return to Brittlebank Park by the same route. Approximately 150 paddle boats are anticipated to participate in the Patriot Challenge Kayak Race. Participant paddle boats will include: Kayaks, canoes, and paddleboards.

The proposed rule would establish special local regulations on the Ashley River in Charleston, South Carolina consisting of a series of buffer zones around vessels participating in the Patriot Challenge Kayak Race. These buffer zones would be as follows: (1) All waters within 75 yards of the lead safety

vessel; (2) all waters within 75 yards of the last safety vessel; and (3) all waters within 100 yards of all other participating vessels, including kayaks, canoes, and paddleboards. Notice of the special local regulations, including the identities of the lead safety vessel and the last safety vessel, would be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. The special local regulations would be enforced from 12:30 p.m. until 3:30 p.m. on April 28, 2012. Persons and vessels would be prohibited from entering, transiting through, anchoring in, or remaining within the buffer zones unless authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels would be able to request authorization to enter, transit through, anchor in, or remain within the buffer zones by contacting the Captain of the Port Charleston by telephone at (843) 740-7050, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within any of the buffer zones is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization would be required to comply with the instructions of the Captain of the Port Charleston or a designated representative.

#### 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.

#### Regulatory Planning and Review

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and Review, 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has not been designated a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this proposed rule under Executive Order 12866.

The economic impact of this proposed rule is not significant for the following reasons: (1) The special local regulations would be enforced for only three hours; (2) although persons and vessels would not be able to enter, transit through, anchor in, or remain within the buffer zones without authorization from the Captain of the Port Charleston or a designated representative, they would be able to operate in the surrounding area during the enforcement period; (3) persons and vessels would still be able to enter, transit through, anchor in, or remain within the buffer zones if authorized by the Captain of the Port Charleston or a designated representative; and (4) the Coast Guard would provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Ashley River encompassed within the special local regulations from 12:30 p.m. until 3:30 p.m. on April 28, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this proposed rule would not have a significant economic impact on a substantial number of small entities.

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 proposed rule would economically affect it.

#### Assistance for Small Entities

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 so that they can better evaluate its effects on them and participate in the rulemaking. 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 contact Ensign John Santorum, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740-3184, email [John.R.Santorum@uscg.mil](mailto:John.R.Santorum@uscg.mil). 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.

#### 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).

#### 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.

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

#### 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.

#### 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.

## Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed 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.

## 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.

## Energy Effects

We have analyzed this proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, 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 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 establishing special local regulations issued in conjunction with a marine parade, as described in figure 2–1, paragraph (34)(h), of the Instruction. Under figure 2–1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this proposed rule. 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 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes 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:** 33 U.S.C. 1233.

2. Add a temporary § 100.T07–1095 to read as follows:

### § 100.T07–1095 Special Local Regulations; Patriot Challenge Kayak Race, Ashley River, Charleston, SC.

(a) *Regulated Areas.* The following buffer zones are regulated areas during the Patriot Challenge Kayak Race: (1) All waters within 75 yards of the lead safety vessel; (2) all waters within 75 yards of the last safety vessel; and (3) all waters within 100 yards of all other participating vessels, including kayaks, canoes, and paddleboards. The identities of the lead safety vessel and the last safety vessel will be provided prior to the Patriot Challenge Kayak Race by Local Notice to Mariners and Broadcast Notice to Mariners. The race will begin at Brittlebank Park, transit southeast the Ashley River, head north between Shutes Folly Island and the Charleston peninsula, and then turn around in Tidewater Reach. The race

will return to Brittlebank Park by the same route.

(b) *Definition.* 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 Charleston in the enforcement of the regulated areas.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement Date.* This rule will be enforced from 12:30 p.m. until 3:30 p.m. on April 28, 2012.

Dated: December 5, 2011.

**M.F. White,**

*Captain, U.S. Coast Guard, Captain of the Port Charleston.*

[FR Doc. 2011–32850 Filed 12–21–11; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–HQ–OAR–2011–0081; FRL–9609–5]

**RIN 2060–AQ69**

### Revisions to Final Response to Petition From New Jersey Regarding SO<sub>2</sub> Emissions From the Portland Generating Station

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.