

PART 846—INDIVIDUAL CIVIL PENALTIES

■ 9. The authority citation for part 846 continues to read as follows:

Authority: 28 U.S.C. 2461, 30 U.S.C. 1201 *et seq.*, and 31 U.S.C. 3701.

■ 10. In § 846.14, revise the first sentence of paragraph (b) to read as follows:

§ 846.14 Amount of individual civil penalty.

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(b) The penalty will not exceed \$18,391 for each violation. * * *

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket Number USCG-2022-0174]

RIN 1625-AA87

Security Zone; Cooper River Bridge Run, Cooper River and Town Creek Reaches, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on certain waters of the Cooper River and Town Creek Reaches. This action is necessary to provide for the safety of life on these navigable waters near Charleston, South Carolina, during the Cooper River Bridge Run. This regulation prohibits persons and vessels from entering, transiting through, anchoring in, or remaining within the security zone unless authorized by the Captain of the Port Charleston (COTP) or a designated representative.

DATES: This rule is effective from 7:30 a.m. to 11 a.m., on April 2, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0174 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Chad Ray, Sector Charleston Waterways Management Division, Coast Guard; telephone (843) 740-3184, email Chad.L.Ray@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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 it is impracticable and contrary to the public interest. The primary justification for this action is that the Coast Guard was given short notice from the event sponsor. Therefore, the Coast Guard lacks sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. It would be impracticable and contrary to the public interest to delay promulgating this rule, as it is necessary to protect the safety of participants, spectators, and vessels transiting near the race area during the Cooper River Bridge 10-K Run event.

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 of this rule would be impracticable and contrary to the public interest because the temporary security zone must be established on April 2, 2022 to ensure the safety of participants, spectators, and vessels during the event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP Charleston has determined that potential hazards associated with the large number of participants and spectators during the run will be a safety and security concern. The purpose of the rule is to ensure the safety and security of participants, spectators, the general public, vessels and the navigable waters in the security zone before, during and after the scheduled race.

IV. Discussion of the Rule

This rule establishes a security zone from 7:30 a.m. to 11 a.m., on April 2, 2022. The security zone will cover certain navigable waters of the Cooper River and Town Creek Reaches in Charleston, South Carolina. The duration of the zone is intended to ensure the safety and security of the participants, spectators, and the general public during the scheduled 7:30 a.m. to 11 a.m. race. No vessel or person will be permitted to enter, transit through, anchor in or remain within the security zone without obtaining permission from the COTP or a designated representative. If authorization to enter, transit through, anchor in, or remain within the security zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative. The Coast Guard will provide notice of the security zone by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

V. Regulatory Analyses

We developed this 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 rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the following reasons: (1) The security zone only being enforced for a total of three and a half hours; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the zone without authorization from the COTP or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the areas during the enforcement period if authorized by the COTP or a designated representative; and (4) the Coast Guard

will provide advance notification of the zone to the local maritime community by Broadcast Notice to Mariners, or by on-scene designated representatives.

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 rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. 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 in the **FOR FURTHER INFORMATION CONTACT** section.

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.

C. Collection of Information

This rule will 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 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 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.

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

F. Environment

We have analyzed this 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 determined 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 rule involves a security zone that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area surrounding the Cooper River Bridge on the waters of the Cooper River and Town Creek Reaches during a race event lasting three and a half hours. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A 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

G. 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.

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: 46 U.S.C. 70034; 46 U.S.C. 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1, Revision No. 01.2.

■ 2. Add § 165. T07–0110 to read as follows:

§ 165.T07–0110 Security Zone; Cooper River Bridge Run, Charleston SC.

(a) *Location.* All waters of the Cooper River, and Town Creek Reaches encompassed within the following points: Beginning at 32°48′32″ N, 079°56′08″ W, thence east to 32°48′20″ N, 079°54′20″ W, thence south to 32°47′20″ N, 079°54′29″ W, thence west to 32°47′20″ N, 079°55′28″ W, thence north to origin. All coordinates are North American Datum 1983.

(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 (COTP) 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 area unless authorized by the COTP Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the COTP Charleston by telephone at 843–740–7050, or a

designated representative via VHF radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Charleston or a designated representative.

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

(d) *Enforcement Period.* This rule will be enforced from 7:30 a.m. until 11 a.m., on April 2, 2022.

Dated: March 12, 2022.

J.D. Cole,

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

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DEPARTMENT OF EDUCATION

34 CFR Part 361

[Docket ID ED-2019-OSERS-0140]

State Vocational Rehabilitation Services Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final interpretation.

SUMMARY: The U.S. Department of Education (Department) issues this final notification of interpretation (NOI) in response to comments made on the NOI published in the **Federal Register** on February 28, 2020. That NOI became effective on the date it was issued and clarified current policy regarding the permissibility of using funds reserved for pre-employment transition services for auxiliary aids and services, and it announced a change in policy regarding the use of Federal vocational rehabilitation (VR) funds reserved for the provision of pre-employment transition services. The Department's policy expressed in this final NOI is unchanged from that in the NOI published on February 28, 2020.

DATES: This final interpretation is issued: March 21, 2022. Pursuant to the NOI, this interpretation is applicable as of February 28, 2020.

FOR FURTHER INFORMATION CONTACT: Carol Dobak, U.S. Department of Education, 400 Maryland Avenue SW, Room 5153, Potomac Center Plaza, Washington, DC 20202-0001. Telephone: (202) 245-7325. Email: Carol.Dobak@ed.gov.

SUPPLEMENTARY INFORMATION:

Background

The amendments to the Rehabilitation Act of 1973 (Rehabilitation Act) made by title IV of the Workforce Innovation and Opportunity Act (WIOA) place heightened emphasis on the provision of services to students and youth with disabilities to ensure that they have meaningful opportunities to receive the training and other services they need to achieve employment outcomes in competitive integrated employment. The Rehabilitation Act, as amended by WIOA, expanded not only the population of students with disabilities who may receive services under the VR program but also the kinds of services the designated State units (DSUs) may provide to these students with disabilities who are transitioning from school to postsecondary education and employment.

Most notably, section 110(d)(1) of the Rehabilitation Act and 34 CFR 361.65(a)(3)(i) requires States to reserve at least 15 percent of their Federal VR grant for the provision of pre-employment transition services. Section 113(a) of the Rehabilitation Act and 34 CFR 361.48(a) require DSUs for the VR program to use the reserved funds to provide, or arrange for the provision of, pre-employment transition services to all students with disabilities in need of such services who are eligible or potentially eligible for services under the VR program.

Section 113(b) of the Rehabilitation Act and 34 CFR 361.48(a)(2) list the five required pre-employment transition services that DSUs, in collaboration with local educational agencies (LEAs), must make available to students with disabilities in need of these services.

These services are—

- Job exploration counseling;
- Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that are provided in an integrated environment to the maximum extent possible;
- Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;
- Workplace readiness training to develop social skills and independent living; and
- Instruction in self-advocacy, which may include peer mentoring.

Pre-employment transition services represent the earliest set of services available for students with disabilities under the VR program, are short-term in nature, and are designed to help students identify career interests.

Following implementation of the pre-employment transition services requirements, the Department received comments from DSUs and other stakeholders regarding: (1) The need for further clarification about the extent to which funds reserved for the provision of pre-employment transition services may be used to pay for auxiliary aids and services; and (2) the ability of States to reserve and expend at least 15 percent of their VR grants on the provision of pre-employment transition services under the Department's general interpretation of the statutory requirements related to the allowable use of funds. Specifically, DSUs and stakeholders asked if funds reserved for pre-employment transition services may be used to cover the costs of auxiliary aids and services provided directly to students with disabilities as well as other VR services, such as transportation, tuition for postsecondary education, rehabilitation technology, and job coaching.

On February 28, 2020, the Department published an NOI in the **Federal Register** (85 FR 11848) to clarify current policy regarding the permissibility of using funds reserved for pre-employment transition services for auxiliary aids and services, and to announce a change in policy regarding the use of Federal VR funds reserved for pre-employment transition services. There are no changes between the original interpretation published on February 28, 2020, and this final interpretation. Through this document, the Department also rescinds the Dear Director email transmitted to VR agencies on December 28, 2016, regarding the use of reserved funds for the provision of auxiliary aids and services because the substance of that email was incorporated into and clarified by the February 28, 2020, NOI.

Public Comment: In response to our invitation in the NOI, 26 parties submitted comments.

Analysis of Comments and Changes: An analysis of the comments on the interpretation since its publication follows. We do not address comments that raised concerns not directly related to the interpretation.

Support for Interpretation

Comments: Commenters generally expressed appreciation for the flexibilities described in the NOI. Some commenters noted that the flexibilities would allow students with the most significant disabilities to benefit from the expansion of services needed to access and support the provision of pre-employment transition services. One commenter stated that the new