

entry for § 301.7502–1T to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 301.7502–1 is amended by:

- 1. Revising paragraphs (b)(2) and (e).
- 2. Adding paragraphs (c)(3) and (g)(4).

The additions and revisions read as follows:

**§ 301.7502–1 Timely mailing of documents and payments treated as timely filing and paying.**

\* \* \* \* \*

- (b) \* \* \*
- (2) *Claims for refund*—(i) *In general.*

In the case of certain taxes, a return may constitute a claim for credit or refund. Section 7502 is applicable to the determination of whether a claim for credit or refund is timely filed for purposes of section 6511(a) if the conditions of section 7502 are met, irrespective of whether the claim is also a return. For rules regarding claims for refund on late filed tax returns, see paragraph (f) of this section. Section 7502 is also applicable when a claim for credit or refund is delivered after the last day of the period specified in section 6511(b)(2)(A) or in any other corresponding provision of law relating to the limit on the amount of credit or refund that is allowable.

(ii) *Example.* The rules of paragraph (b)(2)(i) of this section are illustrated by the following example:

*Example.* (A) Taxpayer A, an individual, mailed his 2004 Form 1040, “U.S. Individual Income Tax Return,” on May 10, 2005, but no tax was paid at that time because the tax liability disclosed by the return had been completely satisfied by the income tax that had been withheld on A’s wages. On April 15, 2008, A mails, in accordance with the requirements of this section, a Form 1040X, “Amended U.S. Individual Income Tax Return,” claiming a refund of a portion of the tax that had been paid through withholding during 2004. The date of the postmark on the envelope containing the claim for refund is April 15, 2008. The claim is received by the IRS on April 18, 2008.

(B) Under section 6511(a), A’s claim for refund is timely if filed within three years from May 10, 2005, the date on which A’s 2004 return was filed. As a result of the limitations of section 6511(b)(2)(A), if A’s claim is not filed within three years after April 15, 2005, the date on which A is deemed under section 6513 to have paid his 2004 tax, A is not entitled to any refund. Because A’s claim for refund is postmarked and mailed in accordance with the requirements of this section and is delivered after the last day of the period specified in section 6511(b)(2)(A), section 7502 is applicable and the claim is deemed to have been filed on April 15, 2008.

\* \* \* \* \*

- (c) \* \* \*

(3) *Private delivery services.* Under section 7502(f)(1), a service of a private delivery service (PDS) may be treated as an equivalent to United States mail for purposes of the postmark rule if the Commissioner determines that the service satisfies the conditions of section 7502(f)(2). Thus, the Commissioner may, in guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b) of this chapter), prescribe procedures and additional rules to designate a service of a PDS for purposes of the postmark rule of section 7502(a).

\* \* \* \* \*

(e) *Delivery*—(1) *General rule.* Except as provided in section 7502(f) and paragraphs (c)(3) and (d) of this section, section 7502 is not applicable unless the document or payment is delivered by U.S. mail to the agency, officer, or office with which the document is required to be filed or to which payment is required to be made.

(2) *Exceptions to actual delivery*—(i) *Registered and certified mail.* In the case of a document (but not a payment) sent by registered or certified mail, proof that the document was properly registered or that a postmarked certified mail sender’s receipt was properly issued and that the envelope was properly addressed to the agency, officer, or office constitutes prima facie evidence that the document was delivered to the agency, officer, or office. Other than direct proof of actual delivery, proof of proper use of registered or certified mail, and proof of proper use of a duly designated PDS as provided for by paragraph (e)(2)(ii) of this section, are the exclusive means to establish prima facie evidence of delivery of a document to the agency, officer, or office with which the document is required to be filed. No other evidence of a postmark or of mailing will be prima facie evidence of delivery or raise a presumption that the document was delivered.

(ii) *Equivalents of registered and certified mail.* Under section 7502(f)(3), the Secretary may extend the prima facie evidence of delivery rule of section 7502(c)(1)(A) to a service of a designated PDS, which is substantially equivalent to United States registered or certified mail. Thus, the Commissioner may, in guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b) of this chapter), prescribe procedures and additional rules to designate a service of a PDS for purposes of demonstrating prima facie evidence of delivery of a document pursuant to section 7502(c).

\* \* \* \* \*

(g) \* \* \*

(4) *Registered or certified mail as the means to prove delivery of a document.* Section 301.7502–1(e)(2) will apply to all documents mailed after September 21, 2004.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

Approved: August 10, 2011.

**Emily S. McMahon,**

*Acting Assistant Secretary (Tax Policy).*

[FR Doc. 2011–21416 Filed 8–22–11; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG–2011–0194]

RIN 1625–AA08

#### Special Local Regulations; Sabine River, Orange, TX

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary Final rule.

**SUMMARY:** The Coast Guard is establishing a temporary Special Local Regulation on the Sabine River within the Port Arthur, TX Captain of the Port Zone. This Special Local Regulation is intended to restrict vessels from portions of the Sabine River during the annual S.P.O.R.T boat races. This Special Local Regulations is necessary to protect spectators and vessels from the hazards associated with powerboat races.

**DATES:** This rule is effective from 8 a.m. on September 24, 2011 to 6 p.m. on September 25, 2011. This rule will be enforced from 8 a.m. until 6 p.m. on September 24 and 25, 2011.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2011–0194 and are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0194 in the “Keyword” box, and then clicking “Search.” 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 Mr. Scott Whalen, Marine Safety Unit Port Arthur, TX, Coast Guard; telephone 409-719-5086, e-mail [scott.k.whelen@uscg.mil](mailto:scott.k.whelen@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:**

##### **Regulatory Information**

On May 27, 2011, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations; Sabine River, Orange, TX in the **Federal Register** (76 FR 103). We received no comments on the proposed rule. No public meeting was requested, and none was held.

##### **Background and Purpose**

This temporary special local regulation is necessary to ensure the safety of vessels and spectators from hazards associated with a powerboat race. Under the authority of 33 U.S.C. 1233, the Captain of the Port has determined that powerboat races in close proximity to watercraft and infrastructure pose significant risk to public safety and property. Establishing a special local regulation around the location of the race course will help ensure the safety of persons and property at these events and help minimize the risks associated with high speed powerboat races.

##### **Discussion of Comments and Changes**

We received no comments and no changes have been made to the proposed rule.

##### **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, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that those Orders.

The Coast Guard has determined that this rule is not a significant regulatory action for the following reasons: (1) The rule will be enforced for ten hours each

day for two days; (2) scheduled breaks will be provided to allow waiting vessels to transit safely through the affected area; and (3) persons and vessels may enter, transit through, anchor in, or remain within the regulated area if they obtain permission from the COTP or the designated representative; and (4) advance notification will be made to the maritime community via broadcast notice to mariners and Local Notice to Mariners (LNM).

##### **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 would not have a significant economic impact on a substantial number of small entities.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons: (1) This rule will only be enforced from 8 a.m. until 6 p.m. each day that it is effective; (2) during non-enforcement hours all vessels will be allowed to transit through the safety zone without having to obtain permission from the Captain of the Port, Port Arthur or a designated representative; and (3) vessels will be allowed to pass through the zone with permission of the Coast Guard Patrol Commander during scheduled break periods between races and at other times when permitted by the Coast Guard Patrol Commander.

##### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could 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 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

##### **Taking of Private Property**

This 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 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 would not create an environmental risk to health or risk to safety that might 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 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 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 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 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 the establishment of a Special Local Regulation. 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 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

### PART 100—REGULATED—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 § 100.35T08-0194 to read as follows:

#### § 100.35T08-0194 Special Local Regulations for Marine Events; Sabine River, Orange, TX.

(a) *Definitions.* As used in this section "Participant Vessel" means all vessels officially registered with event officials to race or work in the event. These vessels include race boats, rescue boats, tow boats, and picket boats associated with the race.

(b) *Location.* The following area is a safety zone: All waters of the Sabine River, shoreline to shoreline, adjacent to the Naval Reserve Unit and the Orange public boat ramps located in Orange, TX. The northern boundary is from the end of Navy Pier One at 30°05'45" N 93°43'24" W then easterly to the rivers eastern shore. The southern boundary is a line shoreline to shoreline at latitude 30°05'33" N.

(c) *Enforcement Period.* This regulation will be enforced daily from 8 a.m. until 6 p.m. on September 24 and 25, 2011.

(d) *Regulations.*

(1) In accordance with the general regulations in § 100 of this part, entry into this zone is prohibited to all vessels except participant vessels and those vessels specifically authorized by the Captain of the Port, Port Arthur or a designated representative.

(2) Persons or vessels requiring entry into or passage through must request permission from the Captain of the Port, Port Arthur, or a designated representative. They may be contacted on VHF Channel 13 or 16, or by telephone at (409) 723-6500.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port, Port Arthur, designated representatives and

designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: June 29, 2011.

Z.H. Pickett,

Commander, U.S. Coast Guard, Captain of the Port, Port Arthur Acting.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

[Docket Number USCG-2011-0761]

RIN 1625-AA09

### Drawbridge Operation Regulation; Illinois Waterway, Joliet, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Elgin Joliet and Eastern Railroad Drawbridge, across the Illinois Waterway, mile 290.1, at Joliet, Illinois. The deviation is necessary to allow the replacement of the existing bridge miter rail joints and installation of lift span alignment guides to ensure precise seating. This deviation allows the bridge to be maintained in the closed-to-navigation position for ten hours.

**DATES:** This deviation is effective from 8 a.m. to 6 p.m. on August 30, 2011.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2011-0761 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0761 in the "Keyword" box and then clicking "Search". They are 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 rule, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone (314) 269-2378, e-mail [Eric.Washburn@uscg.mil](mailto:Eric.Washburn@uscg.mil). If you have questions on viewing the docket,