

**List of Subjects in 23 CFR Part 490**

Bridges, Highway safety, Highways and roads, Incorporation by reference, Reporting and recordkeeping requirements.

Issued on: March 15, 2017.

**Walter C. Waidehlich, Jr.,**

*Acting Deputy Administrator, Federal Highway Administration.*

[FR Doc. 2017-05518 Filed 3-20-17; 8:45 am]

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**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Parts 1910, 1915, and 1926**

[Docket No. OSHA-H005C-2006-0870]

**RIN 1218-AB76**

**Occupational Exposure to Beryllium; Further Delay of Effective Date**

**AGENCY:** Occupational Safety and Health Administration, Department of Labor.

**ACTION:** Final rule; further delay of effective date.

**SUMMARY:** On January 9, 2017, the Occupational Safety and Health Administration (OSHA) published a rule entitled “Occupational Exposure to Beryllium” with an effective date of March 10, 2017 (“Beryllium Final Rule”). OSHA subsequently delayed the effective date of the Beryllium Final Rule to March 21, 2017 (February 1, 2017) and proposed to further delay the effective date to May 20, 2017 (March 2, 2017). This action finalizes that proposal. The additional time will allow OSHA the opportunity for further review of the new Beryllium Final Rule, including review of concerns that commenters raised, and is consistent with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review.”

**DATES:** As of March 21, 2017, the effective date of the final rule amending 29 CFR parts 1910, 1915, and 1926 that published in the **Federal Register** of January 9, 2017 at 82 FR 2470, delayed at 82 FR 8901 on February 1, 2017, is further delayed to May 20, 2017.

**ADDRESSES:** In accordance with 28 U.S.C. 2112(a), the Agency designates Ann Rosenthal, Associate Solicitor of Labor for Occupational Safety and Health, Office of the Solicitor of Labor, Room S-4004, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, to receive petitions for review of this action.

**FOR FURTHER INFORMATION CONTACT:**

Frank Meilinger, Director, Office of Communications, Room N-3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693-1999; email *meilinger.francis2@dol.gov*.

**SUPPLEMENTARY INFORMATION:** OSHA promulgated the Beryllium Final Rule on January 9, 2017 with an effective date of March 10, 2017 (82 FR 2470). On February 1, 2017, OSHA delayed the effective date of the rule to March 21, 2017 (82 FR 8901). OSHA promulgated the extension consistent with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review” (82 FR 8346; January 24, 2017) (“Memorandum”), which contemplated temporarily postponing for 60 days the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect, absent certain inapplicable exceptions.

In addition, the Memorandum directed agencies to consider further delaying the effective date for regulations beyond that 60-day period. After further review, OSHA preliminarily determined that it was appropriate to further delay the effective date of the Beryllium Final Rule, for the purpose of further reviewing questions of fact, law, and policy raised therein. Therefore, consistent with the Memorandum, OSHA proposed to further delay the effective date of the Beryllium Final Rule to May 20, 2017 (82 FR 12318; March 2, 2017). Finalization of the proposed delay of the effective date would not affect the compliance dates of the Beryllium Final Rule.

OSHA received twenty-five unique comments on its proposal to extend the effective date by 60 days to May 20, 2017. Several commenters supported the proposal. (e.g., Document ID 2048; 2049; 2050; 2051.) Many of these commenters indicated that they supported the delay considering the ongoing transition to a new administration. (See Document ID 2058; 2052.) Some commenters supported the proposed extension and requested that OSHA further review the impact of the standards on entities which would be affected by changes from the proposed beryllium rule. (Document ID 2051; 2055; 2068.) Congressman Byrne, Chairman of the Subcommittee on Workforce Protections, among others, urged OSHA to delay the effective date beyond the proposed 60 days or even indefinitely and re-propose the Beryllium Final Rule (Document ID

2064; 2067), citing concerns with the rule’s coverage of abrasive blasting operations under the construction and shipyard standards. OSHA also received approximately 2,500 comments with nearly identical messages, urging the Agency to adopt the proposal and delay the effective date, particularly for the construction and shipyards standards. (See, e.g., Document ID 2072.) Several commenters opposed the proposal and argued in favor of keeping the effective date of March 21, 2017, stating that the Beryllium Final Rule was long overdue, based on sound science, and that all interested parties had the opportunity to participate in the rulemaking. (See, e.g., Document ID 2053; 2054; 2059; 2061; 2062.)

After carefully reviewing these comments, OSHA believes commenters have raised substantive concerns, including about the Beryllium Final Rule’s treatment of the construction and shipyard industries, as suggested by Congressman Byrne. Thus, OSHA has decided to adopt the proposal and delay the effective date by an additional 60 days to May 20, 2017 to further evaluate the Beryllium Final Rule in light of those substantive concerns. The Agency has determined that 60 days will provide adequate time to review the rule and consider the issues raised without hindering protections of workers affected by the rule because the delay of the effective date does not alter the Beryllium Final Rule’s compliance dates.

Signed at Washington, DC, on March 16, 2017.

**Dorothy Dougherty,**

*Deputy Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2017-05569 Filed 3-17-17; 8:45 am]

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

[Docket Number USCG-2017-0021]

**RIN 1625-AA-08**

**Safety 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 safety zone on the waters of the Cooper River and Town Creek Reaches in Charleston, South Carolina

during the Cooper River Bridge Run. The Cooper River Bridge Run is a 10-K run across the Arthur Ravenel Bridge. The safety zone is necessary for the safety of event participants, spectators, and vessels transiting the navigable waters of the Cooper River and Town Creek Reaches during this event. This regulation prohibits persons and vessels from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

**DATES:** This rule is effective from 7:30 a.m. to 10:30 a.m. on April 1, 2017.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2017–0021 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 John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email [John.Z.Downing@uscg.mil](mailto:John.Z.Downing@uscg.mil).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	Federal Register
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code
COTP	Captain of the Port

#### **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 insufficient time remains to publish an NPRM and to receive public comments, as the Cooper River Bridge Run event will occur before the rulemaking process would be completed. Because of the dangers posed by the proximity of the proposed run track to the navigable

waters of the Cooper River and Town Creek Reaches impacted by this event, the safety zone is necessary to provide for the safety of event participants, spectators, and vessels transiting the event area. For those reasons, it would be impracticable and contrary to the public interest to publish an NPRM.

For the reason discussed above, 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**.

#### **III. Legal Authority and Need for Rule**

The legal basis for this rule is the Coast Guard’s authority to establish regulated safety zones and other limited access areas is 33 U.S.C. 1231. The purpose of the rule is to ensure the safety of the runners, the general public, vessels and the navigable waters during the Cooper River Bridge Run.

#### **IV. Discussion of the Rule**

This rule establishes a safety zone on the waters of the Cooper River and Town Creek Reaches in Charleston, South Carolina during the Cooper River Bridge Run. The race is scheduled to take place from 7:30 a.m. to 10:30 a.m. on April 1, 2017. Approximately 40,000 runners are anticipated to participate in the race. Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone 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 safety zone 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. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and 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*

E.O.s 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. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under E.O. 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget. 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 Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

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

##### *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” comprised of small businesses and 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.

While some owners or operators of vessels intending to transit the safety 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### 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 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 Management Directive 023-01 and Commandant Instruction M16475.ID, 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 safety 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 for a 3 hour period. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### 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:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; and Department of Homeland Security Delegation No. 0170.

■ 2. Add a temporary § 165.35T07-0021 to read as follows:

#### § 165.T07-0021 Safety Zone; Cooper River Bridge Run, Charleston SC.

(a) *Location.* All waters of the Cooper River, and Town Creek Reaches encompassed within the following points: 32°48'32" N., 079°56'08" W., 32°48'20" N., 079°54'20" W., 32°47'20" N., 079°54'29" W., 32°47'20" N., 079°55'28" W.

(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 area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, or remain within the regulated area 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, or remain within the regulated area 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 area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This rule will be enforced from 7:30 a.m. until 10:30 a.m. on April 1, 2017.

Dated: March 15, 2017.

**G.L. Tomasulo,**

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

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