



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2012-0168]

RIN 1625-AA08

Special Local Regulation; Smokin The Lake; Gulfport Lake;
Gulfport, MS

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for a portion of Gulfport Lake in Gulfport, MS. This action is necessary for the safeguard of participants and spectators, including all crews, vessels, and persons on navigable waters during the Smokin The Lake high speed boat races on May 5 and 6, 2012. Entry into, transiting or anchoring in this area is prohibited to all vessels not registered with the sponsor as participants or not part of the regatta patrol, unless specifically authorized by the Captain of the Port (COTP) Mobile or a designated representative.

DATES: This rule is effective and enforceable with actual notice from 10:00 a.m. until 6:00 p.m. on May 5, 2012 and May 6, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2012-0168 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0168 in the "Search" 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 and U.S. Coast Guard Sector Mobile (spw), Building 102, Brookley Complex South Broad Street Mobile, AL 36615, between 8:00 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LT Lenell J. Carson, Coast Guard Sector Mobile, Waterways Division; telephone 251-441-5940 or e-mail Lenell.J.Carson@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." This rule provides proper notice; however, 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) which would provide a comment period with respect to this rule. The Coast Guard received an application for a Marine Event Permit on February 27, 2012 confirming that this year's occurrence of this annual event would take place on May 5, 2012 and May 6, 2012. After reviewing the details of the event and the permit application, the Coast Guard determined that a special local regulation is needed and delaying or foregoing this safety measure would be contrary to the public interest. Additionally, this special local regulation is part of a separate rulemaking updating the current list of annually recurring events under docket number USCG-2011-0286. That rulemaking published March 1, 2012 in the Federal Register (77 FR 12456) provided a comment period before becoming a permanent final rule. No comments were received in that docket related to this event.

The special local regulation is needed to safeguard persons and vessels from safety hazards associated with the Smokin The Lake high speed boat races.

Basis and Purpose

On February 27, 2012, Smokin The Lake applied for a Marine Event Permit to conduct high speed boat races on Gulfport Lake, Gulfport, MS on May 5, 2012 and May 6, 2012. This event will draw in a large number of pleasure craft and the high speed boats pose a significant safety hazard to both vessels and mariners operating in or near the area. The COTP Mobile is establishing a temporary special local regulation for a portion of Gulfport Lake, Gulfport, MS to safeguard persons and vessels during the high speed boat races.

The COTP anticipates minimal impact on vessel traffic due to this regulation. However, this special local regulation is deemed necessary for the safeguard of life and property within the COTP Mobile zone.

Discussion of Rule

The Coast Guard is establishing a temporary special local regulation for Gulfport Lake, Gulfport, MS to include all waters between an eastern boundary represented by positions 30° 25' 36" N, 089° 03' 08" W to 30° 25' 26" N, 089° 03' 08" W, and a western boundary represented by positions 30° 25' 32" N, 089° 03' 59" W to 30° 25' 26" N, 089° 03' 59" W. This temporary rule will safeguard life and property in this area. Entry into, transiting or anchoring in this zone is prohibited to all vessels not registered

with the sponsor as participants or not part of the regatta patrol, unless specifically authorized by the COTP Mobile or a designated representative. They may be contacted on VHF-FM Channel 16 or through Coast Guard Sector Mobile at 251-441-5976.

The COTP Mobile or a designated representative will inform the public through broadcast notice to mariners of changes in the effective period for the special local regulation. This rule is effective from 10:00 a.m. until 6:00 p.m. on May 5, 2012 and May 6, 2012.

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 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 special local regulation listed in this rule will

only restrict vessel traffic from entering, transiting, or anchoring within Gulfport Lake, Gulfport, MS. The effect of this regulation will not be significant for several reasons: 1) this rule will only affect vessel traffic for a short duration; 2) vessels may request permission from the COTP to transit through the regulated area; and 3) the impacts on routine navigation are expected to be minimal.

Notifications to the marine community will be made through broadcast notice to mariners. These notifications will allow the public to plan operations around the regulated area.

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 will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in affected portions of Gulfport Lake during the high

speed boat races. This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons. The zone is limited in size, is of short duration and vessel traffic may request permission from the COTP Mobile or a designated representative to enter or transit through the regulated area.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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 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 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 determined that this rule does not have implications for federalism.

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.

Taking of Private Property

This rule will not affect 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

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

Technical Standards

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 establishing a special local regulation, requiring a permit wherein an analysis of the environmental impact of the regulations was performed. Under figure 2-1, paragraph (34)(h.), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects 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--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 § 100.35T08-0168 to read as follows:

§ 100.35T08-0168 Special Local Regulation; Gulfport Lake; Gulfport, MS.

(a) Regulated Area. The following area is a regulated area: Gulfport Lake, Gulfport, MS to include all waters between an eastern boundary represented by positions 30° 25' 36" N, 089° 03' 08" W to 30° 25' 26" N, 089° 03' 08" W, and a western boundary represented by positions 30° 25' 32" N, 089° 03' 59" W to 30° 25' 26" N, 089° 03' 59" W.

(b) Enforcement dates. This rule will be enforced from 10:00 a.m. until 6:00 p.m. on May 5, 2012 and May 6, 2012.

(c) Special Local Regulations.

(1) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF-FM (156.8 MHz) by the call sign "PATCOM".

(2) All Persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The "official patrol vessels" consist of any Coast Guard, state, or local law enforcement and sponsor provided vessels assigned or approved by the Captain of the Port Mobile to patrol the regulated area.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer and will be operated at a minimum safe navigation speed in a manner which will not endanger participants in the regulated area or any other vessels.

(4) No spectator shall anchor, block, loiter, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) The patrol commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Any spectator vessel may anchor outside the regulated area, but may not anchor in, block, or loiter in a navigable channel. Spectator vessels may be moored to a waterfront facility within the regulated area in such a way that they shall not interfere with the progress of the event. Such mooring must be complete at least 30 minutes prior to the establishment of the regulated area and vessels must remain moored through the duration of the event.

(7) The Patrol Commander may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) The Patrol Commander will terminate enforcement of the special local regulations at the conclusion of the event.

(d) Informational Broadcasts. The Captain of the Port or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Dated: March 27, 2012

D. J. Rose,
Captain, U.S. Coast Guard
Captain of the Port Mobile

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