



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2013-0112]

RIN 1625-AA08

Special Local Regulation; Long Beach Regatta, Powerboat Race, Atlantic Ocean, Long Beach, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

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SUMMARY: The Coast Guard is proposing a temporary special local regulation on the navigable waters of the Atlantic Ocean off Long Beach, NY during the Long Beach Regatta Powerboat Race scheduled for August 24-25, 2013. This action is necessary to provide for the safety of life of participants and spectators during this event. Entering into, transiting through, remaining, anchoring or mooring within these regulated areas would be prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Requests for public meetings must be received by the Coast Guard on or before [INSERT DATE 10 DAYS AFTER PUBLICATION IN THE

FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: 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. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Scott Baumgartner, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468-4428, [Scott.A.Baumgartner@uscg.mil](mailto:Scott.A.Baumgartner@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:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register

### A. 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.

#### 1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, 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 at <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, 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 e-mail 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>, type the docket number [USCG-2013-0112] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

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.

## 2. 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>, type the docket number (USCG-2013-0112) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. 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.

## 3. 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).

#### 4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES on or before [INSERT DATE 21 DAYS PRIOR TO THE END OF THE COMMENT PERIOD]. 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.

#### B. Regulatory History and Information

The Great South Bay Racing Inc. has sponsors a powerboat racing event each year. The location and name has changed several time over the past five years. The following rulemaking listed in ascending order are all associated with this evolving event.

On September 3, 2008 the Coast Guard published a final rule entitled, Safety Zone; Patchogue Bay, Patchogue, NY, in the Federal Register (73 FR 51367) establishing a safety zone on Patchogue Bay, Patchogue, NY in 33 Code of Federal Regulation (CFR) 165.158 for the Battle on the Bay Powerboat Race. No comments or requests for public meeting were received during the rulemaking.

On July 6, 2011 the Coast Guard published a temporary final rule entitled, Special Local Regulations & Safety Zones; Marine Events in Captain of the Port Long Island Sound Zone in the Federal Register (76 FR 39292) establishing a special local regulation on the Great South Bay, Islip, NY in 33 CFR 100.T01-0550 for the Battle on the Bay Powerboat Race.

On February 10, 2012 the Coast Guard published a final rule entitled, "Special Local Regulations; Safety and Security Zones; Recurring Events in Captain of the Port Long Island Sound Zone" in the Federal Register (77 FR 6954) establishing a special local regulation on Patchogue Bay, Patchogue, NY in 33 CFR 100.100 for the Battle on the Bay Powerboat race. No comments or request for a public meeting were received during the rulemaking process.

#### C. Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1233 and Department of Homeland Security Delegation No. 0170.1 which collectively authorize the Coast Guard to define regulatory special local regulations.

This temporary rule establishes a special local regulation in order to provide for the safety of life on navigable waters during the Long Beach Regatta Powerboat Race.

#### D. Discussion of Proposed Rule

On Saturday August 24, 2013 and Sunday August 25, 2013 from 7 a.m. until 7 p.m. Great South Bay Racing Inc. will be sponsoring the Long Beach Regatta Powerboat Race, an offshore

powerboat racing regatta. The event will be held on the Atlantic Ocean off Long Beach, NY and will feature six classes of offshore powerboats including vessels from the Extreme Class which can reach speeds exceeding 200 miles per hour. The sponsor expects a minimum of 5,000 spectators for this event with a portion of them expected to view the event from recreational vessels.

The COTP Long Island Sound has determined the combination of increased numbers of recreation vessels, and vessels racing at high speeds has the potential to result in serious injuries or fatalities. This special local regulation proposes temporary regulated areas to restrict vessel movement around the location of the regatta to reduce the risks associated with racing vessels and congested waterways. For these reasons the Coast Guard is proposing three temporary regulated areas on the Atlantic Ocean, from August 24, 2013 through August 25, 2013:

(1) Regatta Course Area. This area is for the exclusive use of registered regatta participants and safety, support and official vessels.

(2) No Entry Area. Buffer zone separating racing vessel from spectators.

(3) Spectator Viewing Area. This area is for the exclusive use of spectator vessels. The sponsor will mark this area.

The geographic locations of these regulated areas and specific requirements of this rule are contained in the regulatory text.

Because a number of spectator vessels are expected to congregate around the location of this event, these regulated areas are needed to protect both spectators and participants from the safety hazards created by them including powerboats traveling at high speeds and congested waterways. During the enforcement periods, persons and vessels are prohibited from entering, transiting through, remaining, anchoring or mooring within the regulated areas unless stipulated otherwise or specifically authorized by the COTP or the designated representative. The Coast Guard may be assisted by other federal, state and local agencies in the enforcement of these regulated areas.

The Coast Guard determined that these regulated areas will not have a significant impact on vessel traffic due to their temporary nature and the fact that vessels are allowed to transit the navigable waters outside of the regulated areas.

The Coast Guard has ordered special local regulations and safety zones for this event when it was held in different locations and has received no public comments or concerns regarding the impact to waterway traffic. Advanced public notifications will be made to the local maritime community through all appropriate means which may include but are not limited to the Local Notice to Mariners and Broadcast Notice to Mariners.

#### E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed 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 Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: The regulated areas are of limited duration and vessels may transit the navigable waterways outside of the regulated areas. Persons or vessels requiring entry into the regulated areas may be authorized to do so by the COTP Long Island Sound or designated representative.

Advanced public notifications will also be made to local mariners through appropriate means, which may include but are not limited to the Local Notice to Mariners as well as Broadcast Notice to Mariners.

## 2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed 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 enter, transit, anchor or moor within the regulated areas August 24 and 25, 2013 from 7 a.m. until 7 p.m.

This temporary special local regulations will not have a significant economic impact on a substantial number of small entities for the following reasons: the regulated areas are of short duration, vessels that can safely do so may navigate in all other portions of the waterways except for the areas designated as regulated areas, and vessels requiring entry into the regulated areas may be authorized to do so by the COTP Long Island Sound or designated representative. Additionally, before the effective period, public notifications will be made to local mariners through appropriate means, which may include but are not limited to the Local Notice to Mariners as well as Broadcast Notice to Mariners.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this 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 rule would economically affect it.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed 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, above. 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.

### 4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

### 5. 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 proposed rule under that Order and determined that this rule does

not have implications for federalism.

#### 6. 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.

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

#### 8. 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.

#### 9. 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.

#### 10. Protection of Children from Environmental Health Risks

We have analyzed this proposed 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.

#### 11. 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.

#### 12. Energy Effects

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

### 13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 14. Environment

We have analyzed this proposed 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 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 the establishment of special local regulations. This rule may be categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A preliminary 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 proposed rule.

### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recording

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 § 100.35T01-0112 to read as follows:

§ 100.35T01-0112 Special Local Regulation; Long Beach Regatta, Powerboat Race, Atlantic Ocean, Long Beach, NY.

(a) Regulated Areas. All coordinates are North American Datum 1983 (NAD 83).

(1) "Regatta Course Area": all navigable waters of the Atlantic Ocean off Long Beach, NY within the following boundaries: Beginning at point "A" at position 40°34'15.84"N, 073°36'03.82" W, then west to point "B" at position 40°34'06.68" N, 073°40'09.27" W, then north to point "C" at position 40°34'48.56" N, 073°40'08.70" W, then east to point "D" at position 40°34'53.33" N, 073°36'14.93" W, then south to the point of origin point "A".

(2) "No Entry Area": a buffer zone comprising all navigable waters of the Atlantic Ocean surrounding the "Regatta Course Area" extending from the south border 700 feet outwards, from the east and west borders 1000 feet outwards and from the north boarder extending to the shoreline.

(3) "Spectator Viewing Area": all navigable waters of the Atlantic Ocean off Long Beach, NY within the following boundaries: Beginning at point "A" at position 40°34'4.56"N, 073°35'52.72" W, then west to point "B" at position 40°33'54.04" N, 073°38'34.08" W, then north to point "C" at position 40°34'00.42" N, 073°38'34.33" W, then east to point "D" at position 40°34'10.07" N, 073°35'56.87" W, then south to the point of origin point "A".

(b) Special Local Regulations.

(1) In accordance with the general regulations found in § 100.35 of this part, entering into, transiting through, anchoring or remaining within the regulated areas is prohibited unless authorized by the Captain of the Port (COTP) Sector Long Island Sound, or designated representative.

(2) The following persons and vessels are authorized by the COTP Long Island Sound to enter areas of this special local regulation:

(i) "Regatta Course Area": registered regatta participants, safety, support, and official vessels.

(ii) "No Entry Area":

(A) Registered regatta participants, safety, support, and official vessels may transit to or from the "Regatta Course Area" at a speed of 25 knots or less when racing is halted.

(B) Swimmers may utilize all shoreline waters up to 100 feet from shore (i.e. end of the jetties).

(iii) "Spectator Viewing Area": spectator vessels engaged in viewing the regatta.

(3) All persons and vessels shall comply with the instructions of the COTP Long Island Sound or designated representative. These designated representatives are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means the operator of a vessel shall proceed as directed.

(4) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas must request authorization from the COTP Long Island Sound or the designated representative. The COTP Long Island Sound may be contacted by telephone at (203) 468-4401 or via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the COTP Long Island Sound or designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP Long Island Sound or designated representative.

(5) The Coast Guard will provide notice of the regulated areas prior to the event through appropriate means, which may

include but is not limited to the Local Notice to Mariners and Broadcast Notice to Mariners.

(c) Enforcement Period. This section will be enforced from 7:00 a.m. until 7:00 p.m. on both August 24, 2013 and August 25, 2013.

Dated: May 9, 2013

J. M. Vojvodich  
Captain, U. S. Coast Guard  
Captain of the Port Long Island Sound

[FR Doc. 2013-13993 Filed 06/12/2013 at 8:45 am; Publication  
Date: 06/13/2013]