



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2013-0327]

RIN 1625-AA08

Special Local Regulations; Regattas and Marine Parades in the Captain of the Port Lake Michigan Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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SUMMARY: The Coast Guard is amending special local regulations for annual regattas and marine parades in the Captain of the Port Lake Michigan Zone. This rule is intended to provide for the safety of life and property on navigable waters immediately prior to, during, and immediately after regattas or marine parades. This rule will establish restrictions upon, and control the movement of, vessels in a portion of the Captain of the Port Lake Michigan Zone.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2013-0327. To view documents mentioned in

this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact MST1 Joseph McCollum, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747-7148 or by email at [Joseph.P.McCollum@USCG.mil](mailto:Joseph.P.McCollum@USCG.mil). If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
TFR	Temporary Final Rule

A. Regulatory History and Information

On April 6, 2007, the Coast Guard published an NPRM for the events that are listed within this regulation and made them available for public comment (72 FR 17062). No comments were received. The Coast Guard followed this NPRM with an Final Rule on September 27, 2007 (72 FR 54832).

On June 14, 2013, in an effort to provide the public with the most accurate and up-to-date information regarding these same events, the Coast Guard published an NPRM entitled Regattas and Marine Parades in the COTP Lake Michigan Zone in the Federal Register (78 FR 35783). We did not receive any comments in response to the proposed rule. No public meeting was requested and none was held.

B. Basis and Purpose

This rule is intended to ensure safety of life and property on the navigable waters immediately prior to, during, and immediately after regattas or marine parades. This rule will establish restrictions upon, and control the movement of, vessels in a specified area of the Captain of the Port Lake Michigan zone.

For each of these events, the Captain of the Port, Lake Michigan, has determined that the likely combination of a race involving a large number of competitors, spectators, and transiting water craft in a congested area

of water presents significant safety risks. These risks include collisions among competitor and spectator vessels, injury to swimmers from transiting water craft, capsizing, and drowning.

The authority for this regulation is 33 U.S.C. 1233.

#### C. Discussion of Comments, Changes, and the Final Rule

The Coast Guard received no comments on this rule. No changes have been made.

This rule will remove 1 event and amend 5 annual marine events listed in 33 CFR Part 100. This rule will amend 33 CFR Part 100 by making updates within the following sections:

33 CFR 100.903, Harborfest Dragon Boat Race; South Haven, MI. The Harborfest Dragon Boat Race is an annual event involving an estimated 250 participants maneuvering self-propelled vessels within a portion of the Black River in South Haven, MI. The organizer for this event submitted a 2013 application showing a date that is different from what is currently codified within the CFR. For that reason the Coast Guard will amend 33 CFR 100.903 to reflect an updated effective date for this event of Saturday and Sunday of the 4th weekend of June, from 6 a.m. until 7 p.m.

33 CFR 100.904; Celebrate Americafest; Green Bay, WI. This event will be removed by this rule because it has been

codified within 33 CFR 165.929 Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone. The Coast Guard determined from past experience that a safety zone best addresses the safety hazards associated with this event.

33 CFR 100.905; Door County Triathlon; Door County, WI. The swim portion of the Door County Triathlon is expected to involve thousands of participants in the waters of Horseshoe Bay - a portion of Green Bay. As this event is currently listed, the effective date expired on July 23 and 24, 2011. The Coast Guard has spoken with the event organizer and confirmed that this Triathlon is expected to reoccur annually. For that reason, the Coast Guard will amend 33 CFR 100.905 to reflect an updated effective date for this event. Likewise, this rule will amend the location and size of the regulated area for this event. This rule will shrink the size of the regulated area by 1000 yards and move the regulated area into the waters of Horseshoe Bay, some 600 yards southeast of its currently-listed location.

33 CFR 100.906; Grand Haven Coast Guard Festival Waterski Show; Grand Haven, MI. This rule will amend the effective date of this event so that, should the date

change, the Coast Guard will give notice to the public of the effective date by Notice of Enforcement.

33 CFR 100.907; Milwaukee River Challenge; Milwaukee, WI. The Milwaukee River Challenge is a rowing competition involving 40' and 60' rowing shells. The event is expected to involve hundreds of participants and spectators. The event organizer for the Milwaukee River Challenge informed the Coast Guard that the Milwaukee River Challenge Race will take place at an earlier time than is currently listed in 33 CFR 100.907. The event organizer further informed the Coast Guard that the rowing shells involved in the Milwaukee River Challenge will race along a portion of the Menomonee River as well as the Milwaukee River. As it is currently listed in 33 CFR 100.907, only the Milwaukee River is named within the "Regulated Area" section. This rule will add the Menomonee River to the "Regulated Area" section, as well as update the effective date to the third Saturday of September; from 8 a.m. to 4 p.m.

33 CFR 100.909; Chinatown Chamber of Commerce Dragon Boat Race; Chicago, IL. The Chinatown Chamber of Commerce Dragon Boat Race is an annual event involving an estimated 1000 participants maneuvering self-propelled vessels within a portion of the Chicago River in Chicago, IL. The organizer for this event submitted an application showing a

date that is different from what is currently codified within the CFR, and is expected to differ in the future. For that reason the Coast Guard will amend 33 CFR 100.909 to reflect an updated effective date for this event of the second Friday and Saturday of July from 11:30 a.m. to 5 p.m.

The Captain of the Port, Lake Michigan will notify the public of the enforcement of the special local regulations in this rule by all appropriate means. Such means of notification will include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners.

The events within this rule are expected to occur on certain dates each year. Because these dates are subject to change, the Coast Guard will provide notice of any change in date via a Notice of Enforcement. Additionally, the Coast Guard will also provide notice via a Broadcast Notice to Mariners.

#### D. Regulatory Analyses

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

##### 1. 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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The special local regulations established by this rule will be periodic, of short duration, and are designed to minimize impact on navigable waters. Thus, restrictions on vessel movement are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the regulated areas when permitted by the Captain of the Port.

## 2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this rule on small

entities. 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 might be small entities: the owners or operators of vessels intending to transit or anchor in affected waters within the Lake Michigan Zone on the days in which these special local regulations are enforced.

This rule will not have a significant economic impact on a substantial number of small entities for the reasons cited in the Regulatory Planning and Review section. Additionally, before the enforcement of these regulated areas, we would issue local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

### 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 rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this 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 FOR FURTHER INFORMATION CONTACT section

above.

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.

#### 4. 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).

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

#### 8. Taking of Private Property

This rule will 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 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

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.

#### 11. 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.

#### 12. 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.

13. Technical Standards

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

14. 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 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 the establishment of regulated areas and, therefore it is categorically excluded from further review under paragraph 34(h) 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.

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—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. Revise § 100.903 to read as follows:

§ 100.903 Harborfest Dragon Boat Race; South Haven, MI.

(a) Regulated Area. A regulated area is established on the Black River in South Haven, MI within the following coordinates starting at 42°24'13.6" N, 086°16'41" W; then southeast 42°24'12.6" N, 086°16'40" W; then northeast to 42°24'19.2" N, 086°16'26.5" W; then northwest to 42°24'20.22" N, 086°16'27.4" W; then back to point of origin (NAD 83).

(b) Special Local Regulations. The regulations in § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Effective Date. These regulations are effective annually on the Saturday and Sunday of the 4th weekend of June, from 6 a.m. until 7 p.m. The time and date for this

event are subject to change. In the event of a schedule change, the Coast Guard will issue a Notice of Enforcement with the exact date and time that this regulated area will be enforced.

3. Remove § 100.904 Celebrate Americafest, Green Bay, WI.

4. Revise § 100.905 to read as follows:

§ 100.905 Door County Triathlon; Door County, WI.

(a) Regulated Area. A regulated area is established to include all waters of Horseshoe Bay within a 1000-yard radius from a position at 45°00'52.6" N, 087°20'6.7" W (NAD 83).

(b) Special Local Regulations. The regulations of § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Effective Date. These regulations are effective annually on the Saturday and Sunday of the third weekend of July; from 7 a.m. to 10 a.m. The time and date for this event are subject to change. In the event of a schedule change, the Coast Guard will issue a Notice of Enforcement

with the exact date and time that this regulated area will be enforced.

5. Revise § 100.906 to read as follows:

§ 100.906 Grand Haven Coast Guard Festival Waterski Show, Grand Haven, MI.

(a) Regulated Area. All waters of the Grand River at Waterfront Stadium from approximately 350 yards upriver to 150 yards downriver of Grand River Lighted Buoy 3A (Light list number 19000) within the following coordinates: 43°04' N, 086°14'12" W; then east to 43°03'56" N, 086°14'4" W; then south to 43°03'45" N, 086°14'10" W; then west to 43°03'48" N, 086°14'17" W; then back to the point of origin (NAD 83).

(b) Special Local Regulations. The regulations in § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Effective Date. These regulations are effective annually the Tuesday before the first Saturday in August; 7 p.m. to 9 p.m. The time and date for this event are subject to change. In the event of a schedule change, the

Coast Guard will issue a Notice of Enforcement with the exact date and time that this regulated area will be enforced.

6. Revise § 100.907 to read as follows:

§ 100.907 Milwaukee River Challenge; Milwaukee, WI.

(a) Regulated Area. All waters of the Milwaukee River from the junction with the Menomonee River at position 43°01'54.9" N, 087°54'37.6" W to the East Pleasant St. Bridge at position 43°03'5.7" N, 087°54'28.1" W (NAD 83). All waters of the Menomonee River from the North 25th St. Bridge at position 43°01'57.4" N, 087°56'40.9" W to the junction with the Milwaukee River (NAD 83).

(b) Special Local Regulations. The regulations in § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Effective date. These regulations are effective annually on the third Saturday of September; from 8 a.m. to 4 p.m. The time and date for this event are subject to change. In the event of a schedule change, the Coast Guard will issue a Notice of Enforcement with the exact date and time that this regulated area will be enforced.

7. Revise § 100.909 to read as follows:

§ 100.909 Chinatown Chamber of Commerce Dragon Boat Race;  
Chicago, IL.

(a) Regulated Area. All waters of the South Branch of the Chicago River from the West 18th Street Bridge at position 41°51'28" N, 087°38'06" W to the Amtrak Bridge at position 41°51'20" N, 087°38'13" W (NAD 83).

(b) Special Local Regulations. The regulations in § 100.901 apply. No vessel may enter, transit through, or anchor within the regulated area without the permission of the Coast Guard Patrol Commander.

(c) Effective Date. These regulations are effective annually on the second Friday and Saturday of July from 11:30 a.m. to 5 p.m. The time and date for this event are subject to change. In the event of a schedule change, the Coast Guard will issue a Notice of Enforcement with the exact date and time that this regulated area will be enforced.

DATED: July 26, 2013

M.W. SIBLEY  
Captain, U.S. Coast Guard  
Captain of the Port, Lake Michigan

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