



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2016-0940]

RIN 1625-AA08

Special Local Regulation; Manatee River; Bradenton, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

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**SUMMARY:** The Coast Guard proposes to establish a special local regulation for certain waters of the Manatee River during the Bradenton Area River Regatta. This action is necessary to protect the safety of race participants, participant vessels, spectators, and the general public on these navigable waters of the United States during the event. The special local regulation would restrict vessel traffic in the waters of the Manatee River in the vicinity of Bradenton, Florida. It would establish the following three areas: two spectator areas, where all vessels must be anchored or operate at No Wake Speed; and an enforcement area where designated representatives may control vessel traffic as determined by the prevailing conditions.

**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].

**ADDRESSES:** You may submit comments identified by docket number USCG-2016-0940 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public

Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Boatswain’s Mate First Class Tyrone J. Stafford, Sector St. Petersburg Prevention Department, Coast Guard; telephone 813-228-2191, e-mail Tyrone.J.Stafford@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

**II. Background, Purpose, and Legal Basis**

The Coast Guard proposes to establish a special local regulation on the waters of the Manatee River, Bradenton, Florida during the Bradenton Area River Regatta. This event is a high speed boat race with approximately 12 Formula 2 Class boats, traveling at speeds in excess of 100 miles per hour. There will also be approximately 14, 1000 cc Hydrocross jet skis participating in scheduled races during this event. Additionally, there will be a jet ski and water ski exhibition located within the regulated area. It is anticipated that 250 spectator vessels will be present along the race course. The race is scheduled to take place annually from approximately 9 a.m. to 9 p.m. during the first Saturday of February.

This proposed rulemaking is necessary to provide for the safety of race participants, participant vessels, spectators, and the general public on these navigable waters of the United

States during the Bradenton Area River Regatta. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1233.

### **III. Discussion of Proposed Rule**

This proposed rulemaking would encompass certain waters of the Manatee River in Bradenton, Florida. The special local regulation would be enforced from 9 a.m. to 9 p.m. normally occurring during the first Saturday of February. The special local regulation would establish the following three areas: (1) two spectator areas, where all vessels must be anchored or operate at No Wake Speed; and (2) an enforcement area that encompasses all race courses and demonstrations, where designated representatives may control vessel traffic as determined by the prevailing conditions.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port St. Petersburg by telephone at 727-824-7506, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and/or on-scene designated representatives.

### **IV. 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 and Executive Orders, and we discuss First Amendment rights of protestors.

### A. Regulatory Planning and Review

Executive Orders 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

The economic impact of this rule is not significant for the following reasons: (1) the special local regulation will be enforced for only twelve hours; (2) although persons and vessels are prohibited to enter, transit through, anchor in, or remain within the regulated area without authorization from the Captain of the Port St. Petersburg or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the regulated area or anchor in the sponsor’s designated spectator area, during the enforcement period if authorized by the Captain of the Port St. Petersburg or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and/or 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 during rulemaking. 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Manatee River, Bradenton, Florida, encompassed within the special local regulation from 9 a.m. until 9 p.m. annually on the first Saturday of February. For the reasons stated in section IV.A above, this rule will not have a significant economic impact on a substantial number of small entities.

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.

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 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 section. 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.

### C. Collection of Information

This proposed rule would 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 proposed 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 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

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

#### F. Environment

We have analyzed this proposed 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 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 rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph (34) (h) of Figure 2-1 of Commandant Instruction M16475.ID. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed 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.

#### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comments can help shape the outcome of this rulemaking. 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.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### **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 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 § 100.723 to read as follows:

**§ 100.723 Special Local Regulation; Bradenton Area River Regatta, Manatee River; Bradenton, FL.**

(a) **Regulated Areas.** The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) Spectator Area #1. An area marked by the event sponsor encompassed within the following points: 27°30.43' N, 82°34.55' W, thence to position 27°30.43' N, 82°34.43' W, thence to position 27°30.23' N, 82°34.43' W, thence to position 27°30.13' N, 82°34.30' W, thence to position 27°30.09' N, 82°34.30' W, thence to position 27°30.09' N, 82°34.55' W, thence back to the original position 27°30.43' N, 82°34.55' W .

(2) Spectator Area #2. An area marked by the event sponsor east of the CSX Railroad train trestle eastbound of a line connected by the following points: 27°30.73' N, 82°34.13' W, thence to position 27°29.99' N, 82°34.07' W

(3) Enforcement Area. The designated race and demonstration areas that are composed of all waters of the Manatee River encompassed within the following points: 27°30.58' N, 82°34.62' W, thence to position 27°30.58' N, 82°34.13' W, thence to position 27°29.99' N, 82°34.06' W, thence to position 27°29.99' N, 82°34.62' W, thence back to the original position 27°30.58' N, 82°34.62' 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 St. Petersburg 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 enforcement area unless authorized by the Captain of the Port St. Petersburg or a designated representative.

(2) Designated representatives may control vessel traffic throughout the enforcement area as determined by the prevailing conditions.

(3) All vessels are to be anchored and/or operate at a No Wake Speed in the spectator area. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the Captain of the Port St. Petersburg by telephone at 727-824-7506, or a designated representative via VHF radio on channel 16.

(d) Enforcement period: This section will be enforced from 9:00 a.m. to 9:00 p.m. annually on the first Saturday during the month of February.

Dated: December 27, 2016

H. L. Najarian  
Captain, U.S. Coast Guard  
Captain of the Port Saint Petersburg

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