



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2017-1076]

RIN 1625-AA08

Special Local Regulation; Miami Grand Prix of the Seas, Biscayne Bay, Miami, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a special local regulation (SLR) for certain navigable waters of Biscayne Bay, Miami, FL for the Miami Grand Prix of the Sea. This action is necessary to provide for the safety of the public, spectators, vessels, and marine environment from potential hazards during high-speed, offshore-style boat and Personal Water Craft (PWC) races during the Miami Grand Prix of the Sea. This SLR is necessary to provide for the safety of the public, spectators, vessels, and marine environment during the Miami Grand Prix of the Sea. The SLR would establish two regulated areas, a safety zone and no anchoring zone. Non-participant persons and vessels would be prohibited from entering, transiting, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Miami (COTP) or a designated representative. All vessels would be prohibited from anchoring in the no anchoring zone. We invite your comments on this proposed rulemaking.

**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 on the Federal eRulemaking Portal at <http://www.regulations.gov> using docket number USCG-2017-1076 in the “Search” feature. 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 Petty Officer Mara J. Brown, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone 305-535-4317, email [Mara.J.Brown@uscg.mil](mailto:Mara.J.Brown@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
§	Section
U.S.C.	United States Code
COTP	Captain of the Port

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

Powerboat P1-USA, LLC has notified the Coast Guard it will be hosting the Miami Grand Prix of the Sea from 8:00 a.m. to 5:00 p.m. from April 20, 2018 through 22, 2018. The event will consist of 28-foot offshore-style powerboats and 200 to 300 Horsepower PWC racing inside the Miami Marine Stadium basin. Approximately 90 participants are scheduled to race in this event.

The purpose of this rulemaking is to establish a SLR to ensure the safety of

personnel, vessels, and marine environment before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1233.

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

The COTP Miami proposes to establish a SLR from April 20 through 22, 2018 from 7:00 a.m. to 6:00 p.m.

The SLR would establish two regulated areas, a safety zone and no anchoring zone, that includes certain waters of Biscayne Bay and the Miami Marine Stadium basin. The duration of the zones is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled event. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

### **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 13771 directs agencies to control regulatory costs through a budgeting process. 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 (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around the regulated area, which may affect a small, designated area of Biscayne Bay. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 notifying boaters of the regulated area.

#### *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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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 (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 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.

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 rule under Department of Homeland Security Management Directive 023-01, which guides 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 proposed rule involves a regulation that would prohibit persons and vessels from transiting or anchoring in the regulated areas during the event. Normally such actions are categorically excluded from further review under paragraphs L61 and of the DHS Instruction Manual Implementation of the National Environmental Policy Act DHS Instruction Manual 023-01-001-01, Rev 01. 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 comment 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, visit <http://www.regulations.gov/privacyNotice>.

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); Waterways; Reporting and Recordkeeping requirements.

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; 33 CFR 1.05-1.

2. Add § 100.T07-1076 to read as follows:

§ 100. T07-1076 Special Local Regulation; Miami Grand Prix of the Seas; Biscayne Bay, Miami, FL.

(a) *Location:* The following regulated areas are established as a SLR in Biscayne Bay; Virginia Key; Miami, FL. Coordinates listed are based on North American Datum 1983.

(1) *Safety Zone:* All waters of a Biscayne Bay encompassed within the following points. Starting at Point 1 in position 25° 45' 12" N, 080° 11' 01" W; thence north along the Intracoastal Waterway to Point 2 in position 25° 45' 31" N, 080° 11' 02" W; thence southeast to Point 3 at the Marine Stadium northern jetty in position 25° 46' 06" N, 080° 10' 22" W; thence southeast along the Marine Stadium basin shoreline to Point 4 in position 25° 44' 21" N, 080° 09' 45" W; thence northwest along Marine Stadium basin shoreline to starting point. No persons/vessels, except participating vessels, may enter, transit, anchoring in, or remaining within the safety zone.

(2) *No Anchor Zone:* All waters of Biscayne Bay extending approximately 650 yards southwest, northwest and northeast from the perimeter of the portion of the safety zone

that extends beyond the Miami Marine Stadium basin. No vessels may anchor within the no anchor zone.

(b) *Definition.* (1) 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 COTP Miami in the enforcement of the regulated areas.

(2) The term “Patrol Commander” means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the respective Coast Guard Sector Commander to enforce these regulations.

(3) The term “spectators” means all persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) *Regulations.* (1) All non-participant vessels or persons are prohibited from entering, transiting, anchoring in, or remaining within the regulated area unless authorized by the COTP or a designated representative.

(2) Persons and vessels desiring to enter, transit, anchor in, or remain within the regulated area may contact the COTP Miami by telephone at (305) 535-4472 or a designated representative via VHF-FM radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated area through Broadcast Notice to Mariners via VHF-FM channel 16 or by on-scene designated representatives.

(d) *Enforcement Period:* This rule will be enforced daily from 7:00 a.m. to 6:00 p.m. on April 20, 2018 through April 22, 2018.

Dated: February 16, 2018.

Megan M. Dean

Captain, U.S. Coast Guard

Captain of the Port Miami

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