



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

**Docket Number USCG-2018-0421**

**RIN 1625-AA08**

**Special Local Regulation; Gulfport Grand Prix, Boca Ciego Bay, Gulfport, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a special local regulation on the waters of the Boca Ciego Bay in the vicinity of Gulfport, Florida, during the Gulfport Grand Prix High Speed Boat Race. Approximately 50 boats, 16 feet in length, traveling at speeds in excess of 120 miles per hour are expected to participate. Additionally, it is anticipated that 20 spectator vessels will be present along the race course. The special local regulation is necessary to protect the safety of race participants, participant vessels, spectators, and the general public on navigable waters of the United States during the event. The special local regulation will establish two regulated areas: (1) a race area where all non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port St. Petersburg (COTP) or a designated representative; and (2) a buffer zone where designated representatives may control vessel traffic as deemed necessary by the COTP St. Petersburg or a designated representative based upon prevailing weather conditions.

**DATES:** This rule is effective daily from 10 a.m. to 5 p.m. on June 1, 2018, through June 3,

2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0421 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Marine Science Technician First Class Michael D. Shackleford , Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228-2191, e-mail Michael.D.Shackleford@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
COTP	Captain of the Port

**II. Background Information and Regulatory History**

The Coast Guard is establishing this special local regulation 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.” 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) with respect to this rule because it is impracticable. The Coast Guard did not receive

the full event plans from the event sponsor nor the details of the event until late March 2018, leaving insufficient time to publish an NPRM. We must establish this special local regulation on June 1, 2018 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. The NPRM process would delay the establishment of the regulated area until after the date of race event, which would compromise public safety.

For the reason discussed above, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register.

### **III. Legal Authority and Need for Rule**

The legal basis for this rule is the Coast Guard's authority to establish special local regulations in 33 U.S.C. 1233. The purpose of the rule is to provide for the safety of the event participants, spectators, and the general public on the navigable waters of the Gulf of Mexico during the Gulfport Grand Prix High Speed Boat Race event.

### **IV. Discussion of the Rule**

This rule establishes a special local regulation that will encompass certain waters of the Boca Ciega Bay in the vicinity of Gulfport, Florida. The special local regulation will be enforced daily from 10 a.m. to 5 p.m. on June 1, 2018 through June 3, 2018. The special local regulation will establish two regulated areas: (1) a race area where all non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area without obtaining permission from the COTP St. Petersburg or a designated representative; and (2) a buffer zone where vessel traffic may be controlled as deemed necessary by the COTP St. Petersburg or a designated representative based upon prevailing weather 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 (COTP) 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 COTP St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP St. Petersburg or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

## **V. Regulatory Analyses**

We developed this 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 rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule 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 regulated areas. Vessel traffic will be able to safely transit around the regulated area, which would impact a small designated area of the waters of the Boca Ciego Bay for seven hours

daily over only three days. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM Channel 16 about the regulated areas as well as a Local Notice to Mariners, and the rule would allow vessels to seek permission to enter, transit through, anchor in, or remain within the regulated areas.

*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 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 V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 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.

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.

C. 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).

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 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 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 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 rule would not result in such 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 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 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 enforced for seven hours daily over a period of three days that will prohibit non-participant persons and vessels from entering, transiting through, remaining within, or anchoring in the regulated area. This rule is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

#### 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.

## **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; 33 CFR 1.05-1.

2. Add § 100.T07-0421 to read as follows:

#### **§ 100.T07-0421 Special Local Regulation; Gulfport Grand Prix, Boca de Ciego; Gulfport, FL.**

(a) Location. The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) Race area. All waters of Boca de Ciego contained within the following points: 27°44'10'' N, 082°42'29'' W, thence to position 27°44'07'' N, 082°42'40'' W, thence to position 27°44'06'' N, 082°42'40'' W, thence to position 27°44'04'' N, 082°42'29'' W, thence to position 27°44'07'' N, 082°42'19'' W, thence to position 27°44'08'' N, 082°42'19'' W, thence back to the original position, 27°44'10'' N, 082°42'29'' W.

(2) Buffer zone. All waters of Boca de Ciego encompassed within the following points: 27°44'10'' N, 082°42'47'' W, thence to position 27°44'01'' N, 082°42'44'' W, thence to position 27°44'01'' N, 082°42'14'' W, thence to position 27°44'15'' N, 082°42'14'' 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 COTP St. Petersburg in the enforcement of the regulated areas.

(c) Regulations. (1) All non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the race area unless an authorized by the Captain of the Port (COTP) St. Petersburg or a designated representative.

(2) Vessel traffic within the buffer zone may be controlled by the COTP St. Petersburg or a designated representative as deemed necessary by the COTP St. Petersburg or a designated representative based upon prevailing weather conditions.

(3) Persons and vessels desiring to enter, transit through, anchor in, or remain within the race area contact the COTP St. Petersburg by telephone at (727) 824-7506 or via VHF-FM radio Channel 16 to request authorization.

(4) If authorization to enter, transit through, anchor in, or remain within the race area is granted, all persons and vessels receiving such authorization shall comply with the instructions of the COTP or a designated representative.

(5) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, or by on-scene designated representatives.

(d) Enforcement period. This rule will be enforced daily from 10 a.m. until 5 p.m. on June 1, 2018, through June 3, 2018.

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