



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

**[Docket Number USCG-2018-0267]**

**RIN 1625-AA08**

**Special Local Regulation; Grand Haven Coast Guard Festival Waterski Show, Grand Haven, MI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is amending a special local regulation for certain waters of the Grand River at Waterfront Stadium in Grand Haven, MI. This action is necessary and is intended to ensure safety of life on navigable waters to be used for a waterski show. This action will prohibit persons or vessels from entering certain waters immediately prior to, during, and immediately after the marine event. This special local regulation is needed to protect spectators, personnel, vessels, and the marine environment from potential hazards created by the Grand Haven Waterski Show.

**DATES:** This temporary final rule is effective from 7 p.m. through 9 p.m. on July 31, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0267 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 about this temporary rule, call or email marine event coordinator MSTC Kaleena Carpino, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI; telephone (414) 747-7148, or email D09-SMB-SECLakeMichigan-WWM@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

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule 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 The Grand Haven Waterski show is an annual event codified in 33 CFR 100.906. The coordinates listed therein are not accurate for this year’s event, and final details for the event were not received in time to publish an NPRM. As such, it is impracticable to publish an NPRM because we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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**. Delaying the effective

date of this rule would inhibit the Coast Guard's ability to protect participants, mariners and vessels from the hazards associated with this event.

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

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Lake Michigan (COTP) has determined that the combination of recreational vessels, commercial vessels, and an unknown number of spectators in close proximity to the waterski show pose extra and unusual hazards to public safety and property. Specific hazards include collisions among event participants, collisions between participants and recreational traffic, and other traffic that may cause injury or marine casualties. Therefore, the COTP is amending a Special Local Regulation around the event location to help minimize risks to safety of life and property to persons, vessels, and the marine environment during this event.

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

This rule establishes a temporary special local regulation from 7 p.m. until 9 p.m. on July 31, 2018. In light of the aforementioned hazards, the COTP has determined that a special local regulation is necessary to protect spectators, vessels, and the marine environment. The special local regulation will cover all navigable waters within the following coordinates: 43°04'5" N, 086°14'12.4" W; then east to 43°04'2" N, 086°14'1" 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. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative.

The COTP or his designated on-scene representative will notify the public of the enforcement of this rule by all appropriate means, including a Broadcast Notice to Mariners and

Local Notice to Mariners. The COTP or his designated on-scene representative may be contacted via VHF Channel 16, or at (404) 747-7182.

## **V. 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, 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 special local regulation. The event is in the evening hours, and will last for a maximum of 2 hours. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the special local regulation, and the rule allows vessels to seek permission to enter the zone.

### **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 will 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 (Public Law 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 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. 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 will 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 Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the

National Environmental Policy Act of 1969 (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 a safety zone lasting only 2 hours that will prohibit transit of the Grand River, in Grand Haven, MI in front of the Waterfront Stadium. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01.

#### 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**

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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 § 100.906 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 in front of Waterfront Stadium from

approximately 500 yards upriver to 150 yards downriver of Grand River Lighted Buoy 3A (Light list number 19000) within the following coordinates: 43°04'5" N, 086°14'12.4" W; then east to 43°04'2" N, 086°14'1" 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 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 and will be enforced from 7 p.m. through 9 p.m. on July 31, 2018. The time and date for this event is 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: June 8, 2018

THOMAS J. STUHLREYER,  
Captain, U.S. Coast Guard,  
Captain of the Port Lake Michigan  
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