



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

**[Docket Number USCG-2018-1008]**

**RIN 1625-AA08**

**Special Local Regulations; Sector Upper Mississippi River Annual and Recurring Marine Events Update**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is amending and updating the listing of annual and recurring marine events that take place within the Eighth Coast Guard District in the Sector Upper Mississippi River area of responsibility, as well as making technical corrections.

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

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2018-1008 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 rulemaking, call or email Lieutenant Commander Christian Barger, Waterways Management Division, Sector Upper Mississippi River, U.S. Coast Guard; telephone

314-269-2560, email Christian.j.barger@uscg.mil.

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector Upper Mississippi River
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**

In fall 2018, the Captain of the Port Sector Upper Mississippi River (COTP) conducted an annual review of the annual and recurring marine events that occur within the Sector Upper Mississippi River Captain of the Port Zone, to include Table 2 of 33 CFR 100.801 titled *Sector Upper Mississippi River Annual and Recurring Marine Events*. During this process, the Coast Guard identified changes that were needed to ensure the public is accurately informed of the events and that the table is easy to read. Additionally, during the review the Coast Guard found that technical corrections were needed to the text of 33 CFR 100.801 to ensure inclusivity for all tables of marine events within the section. On July 3, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled *Special Local Regulations; Sector Upper Mississippi River Annual and Recurring Marine Events Update* (84 FR 31810). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this annual update. During the comment period that ended August 2, 2019, we received no comments.

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

The Coast Guard is amending this rule under the authority in 46 U.S.C. 70041. The Captain of the Port Sector Upper Mississippi River (COTP) determined an amendment to the regulations contained in 33 CFR 100.801 is necessary to accurately reflect annual and recurring marine events taking place in the Eighth Coast Guard District. This rule ensures that the public is informed of annual and recurring events taking place within the Sector Upper Mississippi River Captain of the Port Zone, that the table of annual and recurring events is easy to read, and minimizes the administrative burden to both the Coast Guard and recurring marine event sponsors.

### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM published on July 3, 2019. Although not identified in the NPRM, we are adding the Evansville, IL, Drag Boat Race into this final rule because the sponsor said the 2018 and 2019 races were successful and it will be taking place again on an annual basis.

This rule amends the regulations contained in 33 CFR 100.801 to accurately reflect annual and recurring marine events taking place in the Eighth Coast Guard District. Previously, the text of 33 CFR 100.801 only referred to Table 1, however, the section contains Tables 1 through 7. This rule amends 33 CFR 100.801 to replace six references to “Table 1” with the words “Tables 1 through 7.” Additionally, it updates 33 CFR 100.801 Table 2 titled *Sector Upper Mississippi River Annual and Recurring Marine Events* to accurately reflect marine events occurring on a regular basis in the Sector Upper Mississippi River Captain of the Port Zone. The rule removes events that no longer occur or do not meet the criteria of a marine event, and adds new events that do

meet the criteria of a marine event. In addition, it amends Table 2 by updating the details of one marine event, and by rearranging the Table to display events first by the body of water on which they take place (alphabetically), second by the date(s) on which those events occur, and third by a mile marker (descending). The changes are as follows.

This rule removes the following nine marine events from Table 2 of 33 CFR

100.801:

<b>Date</b>	<b>Event/sponsor</b>	<b>Upper Mississippi River location</b>	<b>Regulated area</b>
1. 1 day—Third Saturday in May	Clear Lake Chapter of the ACBS/That was then, This is Now Boat Show & Exhibition	Quad Cities, IL	Upper Mississippi River mile marker 454.0 to 456.0 (Iowa).
2. 1 day—Third Saturday in March	Lake West Chamber of Commerce/St. Patrick's Water Parade	Lake of the Ozarks, MO	Lake of the Ozarks mile marker 5.0 to 10.0 (Missouri).
4. 2 days—Third weekend in July	Champboat Series LLC/Aquatennial Power Boat Grand Prix	Minneapolis, MN	Upper Mississippi River mile marker 854.8 to 855.8 (Minnesota).
5. 2 days—Third weekend in June	Lake City Chamber of Commerce/Water Ski Days	Lake City, MN	Upper Mississippi River mile marker 772.4 to 772.8 (Minnesota).
6. 2 days—First week of August	River City Days Association/River City Days	Red Wing, MN	Upper Mississippi River mile marker 791.4 to 791.8 (Minnesota).
7. 2 days—Second weekend of September	St. Louis Drag Boat Association/New Athens Drag Boat Race	New Athens, IL	Kaskaskia River mile marker 28.0 to 29.0 (Illinois).
8. 2 days—Third weekend in July	Havana Chamber of Commerce/Havana Boat Races	Havana, IL	Illinois River mile marker 120.3 to 119.7 (Illinois).
9. 5 days – first two weeks of July	K.C. Aviation Expo & Air Show/K.C. Aviation Expo & Air Show	Kansas City, MO	Missouri River mile marker 366.3 to 369.8 (Missouri).
10. 3 days a week from May 4th-September 30th	Twin City River Rats Organization/Twin City River Rats	Twin Cities, MN	Upper Mississippi River mile marker 855.4 to 855.8 (Minnesota).

Events 1, 4, 5, 6, 7, and 8 above have not had a marine event permit application

submitted in past consecutive years and the Coast Guard believes the events no longer occur. Events 2, 9, and 10, are expected to continue, however, in their current format they no longer meet the criteria of a marine event and, correspondingly, the Coast Guard is changing how the events are regulated.

This rule adds six marine events to Table 2 of 33 CFR 100.801 and reorganizes the table as follows:

<b>Date</b>	<b>Event</b>	<b>City, State</b>	<b>Regulated Area</b>
<b>Kaskaskia River</b>			
1. 2 days – Second or Third Weekend of July	Evansville, IL Drag Boat Races	Evansville, IL	Mile markers 11.0 – 10.0
<b>Lake of the Ozarks</b>			
2. 2 days – The weekend before Labor Day weekend	Lake of the Ozarks Shootout	Sunrise Beach, MO	Mile markers 34.5 – 32.5
4. 1 day – First Saturday of June	Lake Race	Lake Ozark, MO	Mile markers 4.0 – 0.0
<b>Upper Mississippi River</b>			
5. 4 days – Either the first or second week of July	Riverfest	La Crosse, WI	Mile markers 698.5 – 697.5
6. 2 days – Second weekend of August	Great River Tug	LeClaire, IA / Port Byron, IL	Mile markers 497.6 – 497.2
7. 1 day – Third weekend of August	Floatzilla	Bettendorf, IA / Davenport, IA / East Moline, IL / Rock Island, IL	Mile markers 491.0 – 479.0

This rule will update the details of a marine event in Table 2 of 33 CFR 100.801 and reorganize the table as follows:

3. 1 day – Third Saturday of July	Aquapalooza	Osage Beach, MO	Mile markers 19.3 – 18.7
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## **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 location, size, and duration of the Special Local Regulations that will be in place during the listed marine events. These regulated areas are limited in size and duration, and positioned away from high vessel traffic areas. Additionally, this rule only modifies the existing tables of marine events by removing nine events that no longer take place or do not meet the criteria of a marine event, adding six events that have been occurring on a regular basis, updating the details of one marine event, and modifying the marine event tables for easier reading.

### *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 received no comments from the Small Business Administration on this rulemaking. 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 call or email 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 call or email 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 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 Environmental Planning COMDTINST 5090.1 (series), 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 the amendment of existing marine event tables found in 33 CFR 100.801 to accurately reflect recurring marine events taking place within the Eighth Coast Guard District. Normally such actions are 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 call or email 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 is amending 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:** 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Amend § 100.801 by revising the introductory text, paragraphs (f), (i), and (j), and Table 2 to § 100.801 to read as follows:

**§ 100.801 Annual Events in the Eighth Coast Guard District.**

The regulations in this section apply to the marine events listed in Tables 1 through 7 of this section. These regulations will be effective annually, for the duration of each event listed in Tables 1 through 7. Annual notice of the exact dates and times of the effective period of the regulation with respect to each event, the geographical area, and details concerning the nature of the event and the number of participants and type(s) of vessels involved will also be published in local notices to mariners. Sponsors of events listed in Tables 1 through 7 of this section must submit an application each year in accordance with § 100.15.

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(f) Any spectator vessel may anchor outside the regulated area specified in Tables 1 through 7 of this section, but may not anchor in, block, or loiter in a navigable channel.

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(i) In Tables 1 through 7 to this section, where a regulated area is described by reference to miles of a river, channel or lake, the regulated area includes all waters between the indicated miles as defined by lines drawn perpendicular to shore passing through the indicated points.

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(j) In Tables 1 through 7 to this section, where alternative dates are described

(“third or fourth Saturday”), the exact date and times will be advertised by the Coast Guard through Local Notices to Mariners and Broadcast Notices to Mariners.

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Table 2 of §100.801 – Sector Upper Mississippi River Annual And Recurring Marine Events

<b>Date</b>	<b>Event</b>	<b>City, State</b>	<b>Regulated Area</b>
<b>Kaskaskia River</b>			
1. 2 days – Second or Third Weekend of July	Evansville, IL Drag Boat Races	Evansville, IL	Mile markers 11.0 – 10.0
<b>Lake of the Ozarks</b>			
2. 2 days – The weekend before Labor Day weekend	Lake of the Ozarks Shootout	Sunrise Beach, MO	Mile markers 34.5 – 32.5
3. 1 day – Third Saturday of July	Aquapalooza	Osage Beach, MO	Mile markers 19.3 – 18.7
4. 1 day – First Saturday of June	Lake Race	Lake Ozark, MO	Mile markers 4.0 – 0.0
<b>Upper Mississippi River</b>			
5. 4 days – Either the first or second week of July	Riverfest	La Crosse, WI	Mile markers 698.5 – 697.5
6. 2 days – Second weekend of August	Great River Tug	LeClaire, IA / Port Byron, IL	Mile markers 497.6 – 497.2
7. 1 day – Third weekend of August	Floatzilla	Bettendorf, IA / Davenport, IA / East Moline, IL / Rock Island, IL	Mile markers 491.0 – 479.0

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Dated: January 3, 2020.

J. P. Nadeau,

Rear Admiral, U.S. Coast Guard,  
Commander, Eighth Coast Guard District.

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