



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2020-0124]

RIN 1625-AA08

Special Local Regulations; Recurring Marine Events in the Lake Michigan Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the rules that regulate vessel traffic and control navigation on portions of waterways in the Lake Michigan Captain of the Port Zone during events that will introduce extra or unusual hazards to the safety of life on the navigable waters of the United States. This proposed rulemaking will reorganize five separate regulations of a similar nature currently listed in the Code of Federal Regulations (CFR) into a single regulation, make minor formatting changes for consistency, move six existing events into this regulation, update the dates listed for events, and list these regulations in table form. 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 identified by docket number USCG-2020-

0124 using the Federal eRulemaking Portal at <https://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 Chief Petty Officer Kyle Weitzell, Waterways Management Division, Sector Lake Michigan, U.S. Coast Guard; telephone 414-747-7148, email Kyle.W.Weitzell@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

Marine events are held on a regularly recurring basis on the navigable waters of the Lake Michigan Captain of the Port Zone (COTP). In the past, the Coast Guard would issue special local regulations for these events. The COTP has determined that potential hazards associated with the events exist, and regulations have been issued to protect safety of life and property for the maritime public and event participants from the hazards associated with these events. In the past, the Coast Guard has not received public comments or concerns regarding impacts to waterway traffic as a result of these regularly recurring events.

This proposed rulemaking would provide consistency to notify the public in a timely manner through permanent publication in Title 33 of the Code of Federal

Regulations. The table in this proposed rule would list each regularly recurring event requiring a special local regulation, as administered by the Coast Guard and enforced by COTP Lake Michigan.

By consolidating these regulations into a single regulation and making minor formatting updates, the Coast Guard will improve the accuracy of the event and regulation information, make the regulation easier to use, and reduce the administrative burden to manage multiple regulations. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1233).

III. Discussion of Proposed Rule

The COTP Lake Michigan is proposing to consolidate all of the regularly recurring marine events in the Lake Michigan COTP Zone from 33 CFR § 100.903 through § 100.910 into a single table located in § 100.903, move six existing events from 33 CFR 165.929 into this table in § 100.903, and make minor formatting changes to ensure consistency with listed dates, times, and locations. In this rulemaking, the Coast Guard proposes to remove §§ 100.906, 100.907, 100.909, and 100.910, and revise § 100.903 to consolidate the regulations contained in the above-mentioned five regulations into a table located within a single regulation, making the regulations easier to use. Additionally, six existing events listed as safety zones in 33 CFR 165.929, specifically those events listed in §§ Table 165.929(e)(30), Table 165.929(e)(51), Table 165.929(f)(17), Table 165.929(f)(18), Table 165.929(g)(2), and Table 165.929(g)(4), would be moved to § 100.903 without making substantial modifications to the application of these events. These events are permitted Marine Events and their inclusion in § 100.903 would be more appropriate than in 33 CFR 165.929. Furthermore, the sponsors

of several events listed have changed the dates that they hold their events requiring the Coast Guard to issue notices of enforcement for these changes each year. Updating these dates will eliminate the need to issue notices of enforcement as a regular occurrence. Lastly, coordinates will all be listed in degrees and decimal minutes format. This rulemaking will not substantially change the details of any event.

As large numbers of spectator vessels and marine traffic are expected to congregate around the event locations, the regulated areas that would be listed in the table are needed to protect both spectators and event participants from safety hazards associated with these events. During the enforcement period of the regulated areas, persons and vessels would be prohibited from entering, transiting through, and remaining, anchoring, or mooring within the regulated area unless specifically authorized by the COTP or a designated representative. The Coast Guard may be assisted by other Federal, State, or local agencies in the enforcement of these regulated areas. These events are listed below in the text of the regulation.

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.

The Coast Guard has previously promulgated special local regulations or safety zones in § 100 and § 165, respectively, for all event areas contained within this proposed regulation and has not received notice of any negative impact caused by the regulations. By consolidating these regulations into a single regulation and making minor formatting changes, the Coast Guard will improve the accuracy of this information, make the regulations easier to use, and reduce the administrative burden to manage multiple regulations.

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 call or email 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 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 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 Directive 023-01, Rev. 1, associated implementing instructions, 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 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 the consolidation and making minor formatting changes of five existing special local regulations. 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. 1. A preliminary Record of Environmental Consideration

supporting this determination is available in the docket where indicated under **ADDRESSES**. 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 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.

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 <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email 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 <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document,

see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://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 is proposing 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: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Revise § 100.903 to read as follows:

§100.903 Recurring Marine Events in the Lake Michigan Captain of the Port Zone

(a) *General.*

(1) The regulations in this section, along with the regulations of §100.901, apply to the marine events listed in Table 1 to §100.903.

(2) These regulations will be enforced for the duration of each event, on or about the dates indicated. Notice of the exact dates and times of the effective period of the regulations with respect to each event, the location of the regulated area, and details

concerning of the event will be made public by publication in the Local Notices to Mariners and/or Broadcast Notice to Mariners over VHF-FM radio.

(3) The dates and times of these events are subject to change. In the event of a change to these events, the Coast Guard will publish a Notice of Enforcement with the exact dates and times that the regulated area will be enforced.

(4) Sponsors of events listed in the table to §100.903 are still required to submit applications for marine event permits in accordance with §100.15.

(b) *Special Local Regulations.*

(1) No vessel may enter, transit through, or anchor within the regulated area of any event listed in Table 1 to §100.903 which has been advertised in accordance with paragraph (a)(2) above without the permission of the Coast Guard Patrol Commander.

(2) Vessel operators desiring to enter or operate within the regulated area shall contact the Coast Guard Patrol Commander to obtain permission to do so. Vessel operators given permission to enter or operate within the regulated area must comply with all directions given to them by the Coast Guard Patrol Commander.

(3) All geographic coordinates in Table 1 to §100.903 are North American Datum of 1983 (NAD 83).

TABLE 1 TO §100.903

Event	Sector Lake Michigan Special Local Regulations	Date
(1) Harborfest Dragon Boat Race	South Haven, MI: All waters of the Black River, within an area bound by the following coordinates: 42° 24.227' N, 086° 16.683' W, then southeast to	2 days; in mid-to-late June

	42° 24.210' N, 086° 16.667' W, then northeast to 42° 24.320' N, 086° 16.442' W, then northwest to 42° 24.337' N, 086° 16.457' W, then returning to the point of origin	
(2) Summer in the City Waterski Show	Green Bay, WI: All waters of the Fox River from the Main Street Bridge to the West Walnut Street Bridge between coordinates: 44° 31.089' N, 088° 00.904' W, then southwest to 44° 30.900' N, 088° 01.091' W	Each Wednesday of July and August
(3) Celebrate America's Ski Show	Green Bay, WI: All waters of the Fox River from the West Walnut Street Bridge to the mouth of the East River between coordinates: 44° 30.912' N, 088° 01.100' W, then northeast to 44° 31.337' N, 088° 00.640' W	1 day; on or around July 4
(4) Grand Haven Coast Guard Festival	Grand Haven, MI: All waters of the Grand River, within an area bound by the following coordinates: 43° 04.000' N, 086° 14.200' W, then east to 43° 03.933' N, 086° 14.067' W, then south to 43° 03.750' N, 086° 14.167' W, then west to 43° 03.800' N, 086° 14.283' W, then returning to the point of origin	2 weeks; in late July and/or early August
(5) Milwaukee Venetian Boat Parade	Milwaukee, WI: All waters of Lake Michigan within the Milwaukee Harbor and the Milwaukee River from McKinley Marina, along the Veteran's Park shoreline, to the Milwaukee Art Museum between coordinates: 43° 02.066' N, 087° 52.966' W, then southwest to 43° 02.483' N, 087° 53.683' W, then south to 43° 02.366' N, 087° 53.700' W	1 day; the third Saturday of August
(6) Milwaukee Open Water Swim	Milwaukee, WI: All waters of the Milwaukee River from the confluence with the Kinnickinnic River to the I-794 Bridge between coordinates: 43° 01.532' N, 087° 54.182' W, then northwest to 43° 02.154' N, 087° 54.597' W	1 day; the first or second Saturday of August
(7) Sister Bay Marinafest Ski Show	Sister Bay, WI: All waters of Sister Bay within an 800 foot radius of the following coordinates: 45° 11.585' N, 087° 07.392' W	1 day; the last week of August or first week of

		September
(8) Milwaukee Harborfest Boat Parade	<p>Milwaukee, WI: All waters of the Milwaukee River from the North Holton Street Bridge to the confluence with the Kinnickinnic River between coordinates:</p> <p>43° 03.284' N, 087° 54.267' W, then south to 43° 01.524' N, 087° 54.173' W</p> <p><i>and</i></p> <p>All water of the Kinnickinnic River from the confluence with the Milwaukee River to the Municipal Mooring Basin between coordinates:</p> <p>43° 01.524' N, 087° 54.173' W, then south to 43° 00.829' N, 087° 54.075' W</p>	1 day; the first or second weekend of September
(9) Milwaukee River Challenge	<p>Milwaukee, WI: All waters of the Milwaukee River from the confluence with the Menomonee River and the East Pleasant Street Bridge between coordinates:</p> <p>43° 01.915' N, 087° 54.627' W, then north to 43° 03.095' N, 087° 54.468' W</p> <p><i>and</i></p> <p>All waters of the Menomonee River from the North 25th Street Bridge to the confluence with the Milwaukee River between coordinates:</p> <p>43° 01.957' N, 087° 56.682' W, then east to 43° 01.915' N, 087° 54.627' W.</p>	1 day; the third Saturday of September
Event	Marine Safety Unit Chicago Special Local Regulations	Date
(10) Chinatown Chamber of Commerce Dragon Boat Race	<p>Chicago, IL: All waters of the South Branch of the Chicago River from the West 18th Street Bridge to the Amtrak Bridge between coordinates:</p> <p>41° 51.467' N, 087° 38.100' W, then southwest to 41° 51.333' N, 087° 38.217' W.</p>	2 days; The second Friday and Saturday of July
(11) Southland Regatta	Blue Island, IL: All waters of the Calumet Sag Channel from the South Halstead Street Bridge to the Crawford Avenue Bridge between coordinates:	2 days; the first Sunday of November

	<p>41° 39.450' N, 087° 38.483' W, then southwest to 41° 39.083' N, 087° 43.483' W</p> <p><i>and</i></p> <p>All waters of the Little Calumet River from the Ashland Avenue Bridge to the junction of the Calumet Sag Channel between coordinates:</p> <p>41° 39.117' N, 087° 39.633' W, then northeast to 41° 39.374' N, 087° 39.001' W</p>	<p>and the Saturday prior to it</p>
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§§ 100.906, 100.907, 100.909, and 100.910 [Removed]

3. Remove §§ 100.906, 100.907, 100.909, and 100.910

Dated: March 5, 2020.

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

[FR Doc. 2020-05729 Filed: 3/18/2020 8:45 am; Publication Date: 3/19/2020]