



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2020-0128]

RIN 1625-AA08

Special Local Regulation: Fort Lauderdale Air Show; Atlantic Ocean, Fort Lauderdale, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) in the Atlantic Ocean east of Fort Lauderdale, Florida in connection with the Ft Lauderdale Air Show. The Ft Lauderdale Air Show is listed as typically occurring annually over one weekend in May. This year, however, the sponsor changed the event's date to the weekend of November 20, 2020. The SLR extends north of the Port Everglades Inlet approximately six miles and is necessary to ensure the safety of the public, spectators, participating vessels, and marine environment during aerobatic maneuvers by low-flying airplanes and high-speed surface demonstrations during the Fort Lauderdale Air Show. This SLR prohibits persons and non-participant vessels from entering, transiting, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port (COTP) Miami or a designated representative.

DATES: This rule is effective from 10 a.m. to 5 p.m. daily from November 20, 2020, through November 22, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2020-0128 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, contact Omar Beceiro, Sector Miami Waterways Management Division, U.S. Coast Guard by telephone at 305-535-4317 or by email at Omar.Beceiro@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 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 since this event has previously undergone the NPRM process and is listed as a recurring event in 33 CFR 100.702, on Line 3 of Table 1 to § 100.702. In addition, the sponsor notified the Coast Guard of the event with insufficient time to prepare and publish an NPRM. Immediate action is needed to respond to the potential safety hazards associated with aerobatic and high-speed surface demonstrations associated with the Fort Lauderdale Air Show. It is impracticable to publish an NPRM because we must establish this safety zone by November 20, 2020.

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 be impracticable because immediate action is needed to respond to the potential safety hazards associated with aerobatic and high-speed surface demonstrations associated with the Fort Lauderdale Air Show.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP Miami has determined potential hazards associated with aerobatic and high-speed surface demonstrations from November 20, 2020, through November 22, 2020, will be a safety concern for anyone within the regulated area. This rule is needed to protect spectators, vessels, and the marine environment in the navigable waters within the SLR.

IV. Discussion of the Rule

This rule establishes a temporary SLR in connection with the Ft Lauderdale Air Show from 10 a.m. to 5 p.m. daily from November 20, 2020 through November 22, 2020. The Ft Lauderdale Air Show is listed in 33 CFR 100.702, on Line 3 of Table 1 to § 100.702 as typically occurring annually over one weekend in May. This year; however, the sponsor changed the event's date to the weekend of November 20, 2020. The SLR extends north of the Port Everglades Inlet approximately six miles and is necessary to ensure the safety of the public, spectators, participating vessels, and marine environment during aerobatic maneuvers by low-flying airplanes and high-speed surface demonstrations during the Fort Lauderdale Air Show. Non-participant vessels are prohibited from entering, transiting, anchoring in, or remaining within the regulated area without obtaining permission from the COTP Miami or a designated representative.

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 scope of the SLR. The SLR will affect a small designated area of the Atlantic Ocean over a period of three days during the month of November, making it limited in size, location and duration. Vessel traffic will be able to safely transit around the regulated area and vessels may seek permission to enter the zone, making it limited in scope. Moreover, the Coast Guard will notify the public of the regulated area through an entry in the Local Notice to Mariners and Broadcast Notice to Mariners on VHF-FM marine channel 16. In addition, the rule would allow.

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 regulated area 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.

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 023-1, 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 determined 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 SLR lasting seven hours per day over three days that will prohibit persons and vessels from entering or transiting the regulated area during the air show. In April 2018, the Coast Guard prepared a Supplemental Environmental Assessment to assess the effects of the Ft Lauderdale Air show on the human environment resulting in a finding of no significant impact. The Supplemental Environmental Assessment and Finding of No Significant Impact (FONSI) are 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); Waterways; 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: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.T07-0128 to read as follows:

§ 100.T07-0128 Special Local Regulation; Fort Lauderdale Air Show; Atlantic Ocean, Fort Lauderdale, FL.

(a) *Regulated area.* The regulations in this section apply to the following area on the Atlantic Ocean in Fort Lauderdale, FL: All waters of the Atlantic Ocean encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 26°11' 01" N 080° 05' 42" W; thence due east to Point 2 in position 26°11' 01" N 080°05' 00" W; thence south west to Point 3 in position 26° 05' 42" N 080° 05' 35" W; thence west to Point 4 in position 26° 05' 42" N 080° 06' 17" W; thence following the shoreline north back to the point of origin. These coordinates are based on North

American Datum 1983.

(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 Miami in the enforcement of the regulated area.

(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 Miami 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.

(d) *Enforcement period.* This rule is will be enforced from 10 a.m. to 5 p.m. daily from November 20, 2020, through November 22, 2020.

Dated: 17 November 2020.

J. F. Burdian,
Captain, U.S. Coast Guard,
Captain of the Port Miami

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