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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2024-0169]

RIN 1625-AA08

Special Local Regulation; Sail Grand Prix, Upper Bay, New York City, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary special local regulation in the Upper Bay of New York Harbor in support of Sail Grand Prix 2024 from June 21, 2024, through June 23, 2024. This special local regulation is necessary to provide for the safety of life from the dangers associated with high-speed sailing during the event. This proposed rulemaking would temporarily prohibit persons and vessels from entering, transiting through, blocking, or loitering within the event area, unless authorized by the Captain of the Port New York or a designated representative. 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-2024-0169 using the Federal Decision-Making 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. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email MST1 Kathryn Veal, Waterways Management Division, U.S. Coast Guard Sector New York; telephone 718-354-4151, email Kathryn.M.Veal@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
Sail GP	Sail Grand Prix
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On October 5, 2023, a representative of Sail Grand Prix (Sail GP) notified the Coast Guard of intentions to conduct Sail Grand Prix 2024 in the Upper Bay of New York Harbor from 1 p.m. to 4 p.m. on June 21, 2024, and from 3:30 p.m. to 6:30 p.m. on June 22, 2024, through June 23, 2024. The race will take place between Governor’s Island, Ellis Island and Liberty Island in the Upper Bay featuring 50-foot foiling catamaran sailboats. Due to the high-profile nature of this event, spectator vessels and support craft that will be present and have the potential to cause vessel congestion in proximity of the Anchorage Channel and Hudson River Channel, the Captain of the Port

(COTP) Sector New York has determined that potential hazards associated with the race and race location would be a safety concern for anyone within the race area and adjacent navigable waters.

The purpose of this rulemaking is to ensure the safety of vessels, spectators and participants and the navigable waters within the racing area before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70041.

III. Discussion of Proposed Rule

The COTP Sector New York proposes to establish a special local regulation in the Upper Bay of New York Harbor from 1 p.m. to 4 p.m. on June 21, 2024, and from 3:30 p.m. to 6:30 p.m. on June 22, 2024, through June 23, 2024. The areas regulated by this special local regulation would be between Governor's Island, Ellis Island and Liberty Island and will cover all navigable waters, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order:

40°42'10.6"N, 74°01'48.5"W; thence to 40°41'50.0"N, 74°01'08.7"W; thence to 40°41'35.6"N 74°01'08.8"W; thence along the shore to 40°41'02.4"N 74°01'29.3"W; thence to 40°40'46.9"N 74°01'49.3"W; thence to 40°40'49.0"N 74°02'25.5"W; thence to 40°41'13.3"N 74°02'26.2"W; thence to 40°41'31.0"N 74°02'18.7"W; thence to 40°41'54.6"N 74°02'01.3"W; thence to 40°42'03.9"N 74°01'56.8"W and thence back to the point of origin. The Sail GP Sponsor will mark the regulated area via colored visual markers and will designate a spectator area within the regulated area. The spectator area will be located on the southern end of the regulated area and may change depending upon the racecourse.

The duration of the establishment of the proposed special local regulation is intended to ensure the safety of vessels in these navigable waters during the scheduled practice and race periods. This proposed temporary special local regulation would temporarily restrict vessel traffic in the vicinity of Liberty Island and Ellis Island and prohibit vessels and persons not participating in the race event from entering the dedicated race area. The regulatory text we are proposing appears at the end of this document.

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. This NPRM has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. Vessel traffic will be able to safely transit around this area via the Buttermilk Channel and via a transit lane west of the race area. The event will impact a small, designated area of the New York Harbor for less than 4

hours each day. Considerations were made to adjust to an earlier time for Friday June 21, 2024, as to reduce impact to commuter ferries. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM Channel 16 about the regulation, and the rule would allow 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 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 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. Routes around the race area are present while the special local regulation is in effect.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the proposed 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 potential effects of this proposed 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 special local regulation lasting 4 hours that would limit entry to the race area without authorization from the Captain of the Port or their designated representatives. 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. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. 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.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG- 2024-0169 in the search box and click "Search." Next, look for this document in the **Search Results** column, and click on it. Then click on the **Comment** option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select "Supporting & Related Material" in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following

instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, 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. Add § 100.T01-0169 to read as follows:

§ 100.T01-0169 Sail Grand Prix 2024, Upper Bay New York Harbor, New York

City, NY.

(a) *Regulated area.* The regulations in this section apply to the following area: All waters of the Upper Bay of New York Harbor, from surface to bottom, encompassed by a line connecting the following points beginning at 40°42'10.6"N, 74°01'48.5"W; thence to 40°41'50.0"N, 74°01'08.7"W; thence to 40°41'35.6"N 74°01'08.8"W; thence along the shore to 40°41'02.4"N 74°01'29.3"W; thence to 40°40'46.9"N 74°01'49.3"W; thence to 40°40'49.0"N 74°02'25.5"W; thence to 40°41'13.3"N 74°02'26.2"W; thence to 40°41'31.0"N 74°02'18.7"W; thence to 40°41'54.6"N 74°02'01.3"W; thence to 40°42'03.9"N 74°01'56.8"W and thence back to the point of origin. These coordinates are based on North American Datum 83 (NAD 83).

(b) *Definitions.* As used in this section—

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port New York (COTP) in the enforcement of the regulations in this section.

Participant means all persons and vessels registered with the event sponsor as a participant in the race.

(c) *Regulations.* (1) All non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the Captain of the Port New York (COTP) or their designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF-FM Channel 16. Those in the regulated area must comply with all lawful orders

or directions given to them by the COTP or the designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement periods.* This section will be enforced from 1 p.m. to 4 p.m. on June 21, 2024, and from 3:30 p.m. to 6:30 p.m. on June 22, 2024, through June 23, 2024.

Zeita Merchant,

CAPTAIN, U.S. Coast Guard,

Captain of the Port Sector New York.

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