



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2016-0463]

RIN 1625-AA08

Special Local Regulation; Midwest Masters Sprints; Maumee River; Toledo, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary special local regulation controlling movement of vessels for certain waters of the Maumee River. This action is necessary and is intended to ensure safety of life on navigable waters to be used for a rowing event immediately prior to, during, and immediately after this event. This regulation requires vessels to maintain a minimum speed for safe navigation and maneuvering.

**DATES:** This temporary final rule is effective from 5 a.m. until 2:30 p.m. on June 11, 2016. For the purposes of enforcement, actual notice will be used on June 11, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as

being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0463 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or e-mail Petty Officer Brett Kreigh, Marine Safety Unit Toledo, Coast Guard; telephone 419-418-6046, e-mail [Brett.A.Kreigh@uscg.mil](mailto:Brett.A.Kreigh@uscg.mil). If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP	Captain of the Port
DHS	Department of Homeland Security
E.O.	Executive Order
NAD 83	North American Datum of 1983
NPRM	Notice of Proposed Rulemaking

II. Background History and Regulatory Information

On June 11, 2016, the Toledo Rowing Club is holding a

rowing regatta in which at least 200 rowers will participate in a race on the Maumee River. Due to the projected amount of human-powered watercraft on the water, there is a need to require vessels in the affected waterways to maintain a minimum speed for safe navigation. The rowing regatta will occur between 5 a.m. and 2:30 p.m. on June 11, 2016. This event is taking place under the same sponsorship in the same location as last year.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231, 33 CFR 1.05-1 and 160.5; and Department of Homeland Security Delegation No. 0170.1. Having reviewed the application for a marine event submitted by the sponsor on January 11, 2016, the Captain of the Port Detroit (COTP) has determined that the likely combination of recreation vessels, commercial vessels, and an unknown number of spectators in close proximity to a rowing regatta along the water pose extra and unusual hazards to public safety and property. Therefore, the COTP is establishing a Special Local Regulation around the event location to help minimize risks to safety of life and property during this event.

The Coast Guard is issuing this temporary final 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 with respect to this rule because waiting for a notice and comment period to run would be impracticable, unnecessary, and contrary to the public interest. Although an initial marine event application was submitted on January 11, 2016, final details regarding event area and patrol parameters were not known to the Coast Guard with sufficient time for the Coast Guard to solicit public comments before the start of the event. Thus, delaying the effective date of this rule to wait for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public from the hazards associated with this power boat race.

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. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

#### IV. Discussion of Rule

This rule establishes a temporary special local regulation from 5 a.m. until 2:30 p.m on June 11, 2016. In light of the aforementioned hazards, the COTP has determined that a special local regulation is necessary to protect spectators, vessels, and participants. The special local regulation will encompass the following waterway: all waters of the Maumee River, Toledo, OH from the Veterans Glass Memorial Bridge at River Mile 3.25 to the Norfolk Southern Railroad Bridge at River Mile 5.76.

An on-scene representative of the COTP or event sponsor representatives may permit vessels to transit the area when no race activity is occurring. The on-scene representative may be present on any Coast Guard, state or local law enforcement vessel assigned to patrol the event. Vessel operators desiring to transit through the regulated area must contact the Coast Guard Patrol Commander to obtain permission to do so. The COTP or his designated on-

scene representative may be contacted via VHF Channel 16.

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.

## 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 or executive orders (E.O.).

### A. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of E.O. 12866, Regulatory Planning and Review, as supplemented by E.O. 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866 or under section 1 of E.O. 13563. The Office of Management and Budget has not reviewed it under those Orders.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any

grant or loan recipients, and will not raise any novel legal or policy issues.

The Coast Guard's use of this special local regulation will be of relatively small size and only nine and a half hours in duration, and it is designed to minimize the impact on navigation. Moreover, vessels may transit through the area affected by this special local regulation at a minimum speed for safe navigation. Overall, the Coast Guard expects minimal impact to vessel movement from the enforcement of this special local regulation.

#### B. Impact on Small Entities

As per the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, we have considered the potential impact of regulations on small entities during 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.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in this portion of the Maumee River, in the vicinity of Toledo, OH between 5 a.m. and 2:30 p.m. on June 11, 2016.

This special local regulation will not have a significant economic impact on a substantial number of small entities for the reasons cited in the Regulatory Planning and Review section. Additionally, before the enforcement of the regulation, Coast Guard Sector Detroit will issue a local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

### C. Assistance for Small Entities

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 so that they can better evaluate its effects on them. If this 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 above.

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 entities that question or complain about this rule or any policy or action of the Coast Guard.

#### D. 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).

#### E. Federalism

A rule has implications for federalism under E.O. 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 determined that this rule does not have implications for federalism.

#### F. 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.

#### G. 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### H. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### I. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### J. Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### K. Indian Tribal Governments

This rule does not have tribal implications under E.O. 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.

#### L. Energy Effects

This action is not a "significant energy action" under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### M. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## N. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a special local regulation and is therefore categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are 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 rule.

### 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 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. Add § 100.35T09-0463 to read as follows:

§ 100.35T09-0463 Special Local Regulation; Midwest Masters Sprints; Maumee River; Toledo, OH.

(a) Regulated area. A regulated area is established to encompass the following waterway: all waters of the Maumee River, from the Veterans Glass Memorial Bridge at River Mile 3.25 to the Norfolk Southern Railroad Bridge at River Mile 5.76.

(b) Effective period. This section is effective and will be enforced from 5 a.m. until 2:30 p.m. on June 11, 2016.

(c) Regulations. (1) Consistent with § 100.901 of this part, vessels transiting within the regulated area shall travel at a no-wake speed and remain vigilant at all times. Additionally, vessels within the regulated area must yield right-of-way for event participants and event safety craft. Commercial vessels will have right-of-way over event participants, and event safety craft.

(2) Vessel operators desiring to operate in the

regulated area must contact the Coast Guard Patrol Commander to obtain permission to do so. The Captain of the Port Detroit (COTP) or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to operate within the regulated area must comply with all directions given to them by the COTP or his on-scene representative.

(3) The "on-scene representative" of the COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the COTP to act on his behalf.

Dated: June 6, 2016

Raymond Negron,  
Commander, U. S. Coast Guard,  
Acting Captain of the Port Detroit.

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