



9110-04-P

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 100**

**[Docket Number USCG-2017-0598]**

### **RIN 1625-AA08**

### **Special Local Regulation; Gulf of Mexico; Englewood, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is establishing a special local regulation on the waters of the Gulf of Mexico in the vicinity of Englewood, Florida during the OPA World Championships High Speed Boat Race, an annually recurring event in the month of November. The special local regulation is necessary to protect the safety of race participants, participant vessels, spectators, and the general public on navigable waters of the United States during the event. The special local regulation establishes the following three areas: A race area where all persons and vessels, except those persons and vessels participating in the high speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; a spectator area where all vessels must be anchored or operate at No Wake Speed; and an enforcement area where designated representatives may control vessel traffic as determined by the prevailing conditions.

**DATES:** This rule is effective without actual notice [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. For the purposes of enforcement, actual notice will be used from November 15, 2017 through [INSERT DATE OF PUBLICATION IN THE FEDERAL

REGISTER].

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0598 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, call or email Marine Science Technician First Class Michael D. Shackleford, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228-2191, e-mail [Michael.d.shackleford@uscg.mil](mailto:Michael.d.shackleford@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
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**

The Coast Guard is establishing a special local regulation on the waters of the Gulf of Mexico in the vicinity of Englewood, Florida during the OPA World Championships High Speed Boat Race. The race will normally occur annually from 9 a.m. to 5 p.m. on the third weekend of November (Friday, Saturday, and Sunday). In 2017, the race will occur daily from 9:00 to 5:00 p.m. starting from Friday, November 17, 2017 through Sunday, November 19, 2017. Approximately 60 boats, ranging in length from 22 feet to 50 feet, traveling at speeds in excess of 77 miles per hour are expected to participate. Additionally, it is anticipated that 100 spectator vessels will be present along the race course.

The Coast Guard published a notice of proposed rulemaking (NPRM) on September 26, 2017, entitled “Special Local Regulation; Gulf of Mexico; Englewood, FL” (see 82 FR 44751). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the high speed boat races. During the comment period that ended October 26, 2017, we received no comments.

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 this event, which will take place this year from Friday, November 17, 2017 through Sunday, November 19, 2017.

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

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port St. Petersburg (COTP) has determined this rulemaking is necessary to provide for the safety of race participants, participant vessels, spectators, and the general public on these navigable waters of the United States during the OPA World Championships.

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

As noted above, we received no comments on the NPRM, which published September 26, 2017. We are modifying the regulatory text of this rule to clarify that we will provide notice of the special local regulations by Local Notice to Mariners and/or Broadcast Notice to Mariners.

This rule establishes a special local regulation that will encompass certain waters of the Gulf of Mexico in Englewood, Florida. The special local regulation will be enforced daily from 9:00 a.m. until 5:00 p.m. during the race event. The special local regulation will establish the following three areas: (1) a race area where all persons and vessels, except those persons and

vessels participating in the high speed boat races, are prohibited from entering, transiting through, anchoring in, or remaining within; (2) a spectator area where all vessels must be anchored or operate at No Wake Speed; and (3) an enforcement area where designated representatives may control vessel traffic as determined by the prevailing conditions. In 2017, the race will be occurring on Friday, November 17, 2017 through Sunday, November 19, 2017.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port (COTP) St. Petersburg by telephone at (727) 824-7506, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the COTP St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP St. Petersburg or a designated representative. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners and/or Broadcast 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 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 following reasons: (1) the special local regulation will be enforced for only eight hours on three days; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the regulated area without authorization from the COTP St. Petersburg or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the regulated area or anchor in the spectator area, during the enforcement period if authorized by the COTP St. Petersburg or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and/or Broadcast Notice to Mariners.

#### 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 contact 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 contact 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 Management Directive 023-01 and Commandant Instruction M16475.ID, 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 a special local regulation issued in conjunction with a marine boat race. It is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. 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 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.

#### **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 § 100.735 to read as follows:

§ 100.735 Special Local Regulation; Annual OPA World Championships, Gulf of Mexico; Englewood Beach, FL.

(a) Regulated areas. The following regulated areas are established as special local regulations. All coordinates are North American Datum 1983.

(1) Race area. All waters of the Gulf of Mexico contained within the following points: 26°56'00" N, 082°22'11" W, thence to position 26°55'59" N, 082°22'16" W, thence to position 26°54'22" N, 082°21'20" W, thence to position 26°54'24" N, 082°21'16" W, thence to position 26°54'25" N, 082°21'17" W, thence back to the original position, 26°56'00" N, 082°21'11" W.

(2) Spectator area. All waters of the Gulf of Mexico contained with the following points: 26°55'33" N, 082°22'21" W, thence to position 26°54'14" N, 082°21'35" W, thence to position

26°54'11" N, 082°21'40" W, thence to position 26°55'31" N, 082°22'26" W , thence back to position 26°55'33" N, 082°22'21" W.

(3) Enforcement area. All waters of the Gulf of Mexico encompassed within the following points: 26°56'09" N, 082°22'12" W, thence to position 26°54'13" N, 082°21'03" W, thence to position 26°53'58" N, 082°21'43" W, thence to position 26°55'56" N, 082°22'48" W, thence back to position 26°56'09" N, 082°22'12" W.

(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 St. Petersburg in the enforcement of the regulated areas.

(c) Regulations. (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the Race Area unless an authorized race participant.

(2) Designated representatives may control vessel traffic throughout the enforcement area as determined by the prevailing conditions.

(3) All vessels are to be anchored and/or operate at a No Wake Speed in the spectator area. On-scene designated representatives will direct spectator vessels to the spectator area.

(4) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the COTP St. Petersburg by telephone at (727) 824-7506, or a designated representative via VHF radio on channel 16. If authorization is granted by the COTP St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP St. Petersburg or a designated representative.

(5) The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners and/or Broadcast Notice to Mariners.

(d) Enforcement period. This rule will be enforced daily from 9 a.m. to 5 p.m. on the third weekend of November (Friday, Saturday and Sunday).

Holly L. Najarian,

Captain, U.S. Coast Guard,

Captain of the Port Saint Petersburg.

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