



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2019-0010]

RIN 1625-AA08

Special Local Regulation: Sail Grand Prix 2019 Race Event, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary special local regulation in the navigable waters of San Francisco Bay in San Francisco, CA in support of the San Francisco Sail Grand Prix 2019 race periods on May 4, 2019 and May 5, 2019. This special local regulation is necessary to ensure the safety of mariners transiting the area from the dangers associated with high-speed sailing activities associated with the Sail Grand Prix 2019 race event. This proposed temporary special local regulation would temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit vessels and persons not participating in the race event from entering the dedicated race area. 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-2019-0010 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 Lieutenant Emily K. Rowan, U.S. Coast Guard District 11, Sector San Francisco, at 415-399-7443, SFWaterways@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
COTP	Captain of the Port
PATCOM	Patrol Commander
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On October 12, 2018, the LeadDog Marketing Corporation notified the Coast Guard of an intention to conduct the “Sail Grand Prix 2019” in San Francisco Bay. Sail Grand Prix is a sailing league featuring world-class sailors racing 50-foot foiling catamarans. The inaugural season started in February 2019 in five iconic cities throughout the world, traveling to San Francisco Bay in May 2019. In San Francisco, they propose to take advantage of the natural amphitheater that the central bay and city waterfront provide.

LeadDog Marketing Corporation has applied for a Marine Event Permit to hold the Sail Grand Prix 2019 race event on the waters of San Francisco Bay in California. The Coast Guard has not approved the Marine Event Permit and is still evaluating the application. If the permit is approved, however, we anticipate that a special local regulation may be necessary to ensure public safety during the race. To provide adequate time for public input, we are proposing this

special local regulation prior to a decision on the Marine Event Permit.

Prior to drafting this Notice of Proposed Rulemaking, the Coast Guard solicited input from maritime stakeholders to better understand the nature of commercial and recreational activities on the Bay and how the proposed Sail Grand Prix 2019 race event could impact such activities. The Coast Guard participated in both a navigation work group and monthly public meeting of the local Harbor Safety Committee (HSC) to meet with stakeholders to obtain information and gather feedback on notional approaches to enacting regulation in connection with the Sail Grand Prix.

The proposed special local regulation would encompass all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48'18" N, 122°27'44" W; thence to 37°48'30" N, 122°27'56" W; thence to 37°49'14" N, 122°27'59" W; thence to 37°49'30" N, 122°25'36" W; thence to 37°49'10" N, 122°25'10" W; thence to 37°48'45" N, 122°25'10" W; thence to 37°48'42" N, 122°25'13" W and thence along the shore to the point of beginning. Located within this footprint, there will be three separate regulated areas: Zone "A", the Official Race Box Area; Zone "B", the Spectator Area; and Zone "C", the Waterfront Passage Area.

Zone "A", the Official Race Box Area, will be marked by approximately 12 colored visual markers. The position of these markers will be specified via Local Notice to Mariners at least 2 weeks prior to the event and via Broadcast Notice to Mariners at least 7 days prior to the event. Because of the hazards posed by the sailing competition, Zone "A" is necessary to provide protection from the operation of the high-speed sailing vessels within this area.

Zone "B", the Spectator Area, will include specified parts of the waters immediately adjacent to racing Zone "A" and will be defined by latitude and longitude points as per Broadcast

Notice to Mariners. Zone “B” will be further divided into three additional sub-areas: Zone “B1 East”, Zone “B1 West”, and Zone “B2”. Zone “B1” will be the general spectator zone that is open to all vessel spectators. Zone “B2” will be a separate designated spectator area marked by approximately four colored buoys that will be managed by marine event sponsor officials. The designation of Zone “B”, to include Zone “B1 East”, Zone “B1 West”, and Zone “B2”, will allow spectators to observe the Sail Grand Prix 2019 race event in a regulated area at a safe distance from the sailing race occurring in Zone “A”.

Zone “C” will be the designated Waterfront Passage Area along the city of San Francisco waterfront marked by buoys on one side and the shoreline on the other. This one-directional lane will provide vessels the opportunity to pass along the San Francisco waterfront, avoiding interference with the established areas. Vessels will be authorized to transit through this zone with approval from the COTP or designated representative. Zone “C” is essential to provide vessels the opportunity to transit along the city of San Francisco waterfront while maintaining the integrity of the regulated areas for the race event. Due to the dynamic nature of the Sail Grand Prix 2019, there is a need for a Waterfront Passage Area so mariners along the waterfront can transit the impacted waterways at designated times. This Zone “C” is necessary for the protection of waterway users and participants in the sailing race event while minimizing the impact to the city of San Francisco maritime community.

These regulations are needed to keep persons and vessels away from the sailing race vessels, which exhibit unpredictable maneuverability and have a demonstrated likelihood for capsizing based on the simulation of racing scenarios. The proposed special local regulation would help prevent injuries and property damage that may be caused upon impact by these fast-moving vessels. The provisions of this temporary special local regulation would not apply to

anchored vessels, nor would they exempt racing vessels from any federal, state, or local laws or regulations, including Nautical Rules of the Road. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta. Pursuant to 33 CFR 1.05-1(i), the Commander of Coast Guard District 11 has delegated to the COTP San Francisco the responsibility of issuing such regulations.

III. Discussion of Proposed Rule

The COTP proposes to establish a special local regulation associated with the Sail Grand Prix 2019 race event from 8:00 a.m. to 2:00 p.m. on May 4, 2019, and 8:00 a.m. to 2:00 p.m. on May 5, 2019. The areas regulated by this special local regulation would be east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the city of San Francisco waterfront. The Coast Guard proposes to establish a primary race area, a spectator area, and a Waterfront Passage Area. An image of these proposed regulated areas may be found in the docket. The special local regulation will cover all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48'18" N, 122°27'44" W; thence to 37°48'30" N, 122°27'56" W; thence to 37°49'14" N, 122°27'59" W; thence to 37°49'30" N, 122°25'36" W; thence to 37°49'10" N, 122°25'10" W; thence to 37°48'45" N, 122°25'10" W; thence to 37°48'42" N, 122°25'13" W and thence along the shore to the point of beginning. Zone "A", Zone "B" and Zone "C" are all to be included within the proposed special local regulation.

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 race days. This proposed temporary special local regulation would temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit vessels and persons not participating in the race event from entering the established 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. 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.

This regulatory action determination is based on the size, location, and duration of the special local regulation. With this special local regulation, the Coast Guard intends to maintain commercial access to the ports through an alternate vessel traffic management scheme. The special local regulation is limited in duration, and is limited to a narrowly tailored geographic area with designated and adequate space for transiting vessels to pass when permitted by the COTP or a designated representative. In addition, although this rule restricts access to the waters

encompassed by the special local regulation, the effect of this rule will not be significant because the local waterway users will be notified in advance via public Broadcast Notice to Mariners to ensure the special local regulation will result in minimum impact. Therefore mariners will be able to plan ahead and transit outside of the periods of enforcement of the special local regulation, and if they choose not to do so, they will be able to transit the city of San Francisco Waterfront via Zone “C” with approval from the COTP or designated representative. The entities most likely to be affected are commercial vessels and pleasure craft engaged in recreational activities.

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.

This rule may affect owners and operators of commercial vessels and pleasure craft engaged in recreational activities and sightseeing. This special location regulation would not have a significant economic impact on a substantial number of small entities for the reasons stated in section IV.A. above. This special local regulation would be subject to enforcement for a limited duration. When the special local regulation is in effect, vessel traffic could pass safely around the regulated area. The maritime public would be advised in advance of this special local regulation via Broadcast Notice to Mariners.

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 contact 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 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 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 and Commandant Instruction M16475.1D, 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 a special local regulation that would create regulated areas of limited size and duration that includes defined regulated areas for vessel traffic to pass. Normally such actions are categorically excluded from further review under paragraphs L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. 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 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.

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>, contact 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 the docket, visit <https://www.regulations.gov/privacyNotice>.

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

The subjects assigned to the Part are: Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes 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: 33 U.S.C. 1233; 33 CFR 1.05-1.

2. Add § 100.35.T11-968 to read as follows:

§100.35T11-968 Special Local Regulation; Sail Grand Prix 2019 Race Event, San Francisco, CA

(a) Location. The following area is a temporary special local regulation: all navigable waters of the San Francisco Bay, from surface to bottom, encompassed by a line connecting the following points, beginning at:

37°48'18" N, 122°27'44" W; thence to 37°48'30" N, 122°27'56" W; thence to 37°49'14" N, 122°27'59" W; thence to 37°49'30" N, 122°25'36" W; thence to 37°49'10" N, 122°25'10" W; thence to 37°48'45" N, 122°25'10" W; thence to 37°48'42" N, 122°25'13" W and thence along the shore to the point of beginning.

(b) Definitions. As used in this section,

- (1) "Designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the special local regulation.

- (2) “Patrol Commander” or “PATCOM” means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the Captain of the Port San Francisco (COTP), to assist in the enforcement of the special local regulation.
- (3) Zone “A” means the Official Race Box Area, which is marked by approximately 12 colored visual markers within the special local regulation area designated in paragraph (a). The position of these markers will be specified via Local Notice to Mariners at least 2 weeks prior to the event and Broadcast Notice to Mariners at least 7 days prior to the event.
- (4) Zone “B” means the Spectator Area, which is within the special local regulation area designated in paragraph (a) and outside of Zone A, the Official Race Box Area, Zone B is defined by latitude and longitude points as per Broadcast Notice to Mariners and Local Notice to Mariners. Zone “B” is be further divided into three additional sub-areas: Zone “B1 East”, Zone “B1 West”, and Zone “B2”. Zone “B1 East” and Zone “B1 West” mean the general spectator zone that is open to all vessel spectators. Zone “B2” means the separate designated spectator area marked by approximately four colored buoys that will be managed by marine event sponsor officials.
- (5) Zone “C” means the Waterfront Passage Area. Zone C is within the special local regulation but not within Zone A or Zone B. This one-directional lane provides vessels the opportunity to pass along the San Francisco waterfront, avoiding interference with other established areas.

Vessels will be authorized to transit through this zone with approval from the COTP or designated representative.

(c) Special Local Regulation. The following regulations apply between 8:00 a.m. and 2 p.m. on the race event days.

- (1) Only support and race vessels may be authorized by the COTP or designated representative to enter Zone "A" during the race event. Vessel operators desiring to enter or operate within Zone "A" must contact the COTP or a designated representative to obtain permission to do so. Persons and vessels may request permission to transit Zone "A" on VHF-23A.
- (2) Spectator vessels in Zone "B" must maneuver as directed by the COTP or designated representative. When hailed or signaled by the COTP or designated representative by a succession of sharp, short signals by whistle or horn, the hailed vessel must come to an immediate stop and comply with the lawful directions issues. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both
- (3) Spectator vessels in Zone "B" must operate at safe speeds which will create minimal wake.
- (4) Vessel operators desiring to enter or operate within Zone "C", the Waterfront Passage Area, must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in Zone "C" must comply with all directions

given to them by the COTP or designated representative. Persons and vessels may request permission to transit Zone “C” on VHF-23A.

(5) Rafting and anchoring of vessels are prohibited within Zones “A”, “B”, or “C”.

(d) Enforcement periods. The special local regulation will be enforced for race events on 4 May 2019 and 5 May 2019 from 8:00 a.m. until approximately 2:00 p.m. each day. At least 24 hours in advance of the race event, the COTP will notify the maritime community of periods during which these zones will be enforced via Notice to Mariners and via the Coast Guard Boating Public Safety Notice.

Dated: February 28, 2019

Anthony J. Ceraolo
Captain, U.S. Coast Guard
Captain of the Port, San Francisco

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