



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**[Docket Number USCG-2019-0945]**

**RIN 1625-AA08**

**Special Local Regulation; St. Thomas Lighted Boat Parade, St. Thomas, U.S. Virgin Island**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a special local regulation for the St. Thomas Lighted Boat Parade marine event. The special local regulation is for certain navigable waters of Crown Bay, Haulover Cay, and St. Thomas Harbor, St. Thomas, U.S. Virgin Islands. The special local regulation is necessary to ensure the safety of vessels, spectators, and public during the event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port San Juan or a designated representative.

**DATES:** This rule is effective without actual notice from 6:30 p.m. until 9:00 p.m. on December 20, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0945 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 LCDR Pedro L. Mendoza, Waterways Management Division, U.S. Coast Guard; telephone 787-691-7058, email Pedro.L.Mendoza@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 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 because the Coast Guard did not receive notice of the marine event from involved parties with sufficient time to publish a NPRM and to receive public comments prior to the event. It is impracticable to publish an NPRM because the Coast Guard did not receive notice of the boat parade until December 4, 2019, and the special local regulation is needed for December 20, 2019. This action is necessary for the protection of life and property on the navigable waters of the United States. Therefore, it would be contrary to the public interest to postpone establishing this temporary special local regulation.

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 reason discussed above.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The purpose of this rule is to ensure safety of the event participants, vessels and the navigable waters of Crown Bay, Haulover Clay and St. Thomas Harbor, St. Thomas, U.S. Virgin Islands (USVI), during the St. Thomas Lighted Boat Parade. The Captain of the Port (COTP) has determined that potential hazards associated with the marine parade event will pose a safety concern for any persons and vessels within the regulated area.

### **IV. Discussion of the Rule**

This rule establishes a temporary special local regulation on certain navigable waters of the Crown Bay, Haulover Cay, and St. Thomas Harbor, St. Thomas, USVI during the St. Thomas Lighted Boat Parade from 6:30 p.m. until 9:00 p.m. on December 20, 2019. The regulated area will encompass all waters within a 100-foot radius of participating vessels, beginning with the lead vessel, ending with the last participating vessel, and at all times extending 100-feet on either side of the parade vessels. The parade route consist of a course that starts at Crown Bay Marina in potion 18°19'986"N, 64°57'088"W; proceeds thence east through Halover Cut, thence northeast throu Cay Bay, thence east towards the Coast Guard Base in Kings Warf and thence back through the same route to the beginning postion. All coordinates are North American Datum 1983.

The special local regulation is intended to protect personnel, vessels, and the marine environment in these navigable waters during the power boat races. All persons and non-

participating vessels are prohibited from entering, transiting through , anchoring in, or remaining within the regulated area unless authorized by the COTP San Juan or a designated representative. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the COTP San Juan or a designated representative. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP San Juan or a designated representative. The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and/or by on-scene designated representatives.

## **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, and duration of the regulated area. The regulated area will impact a small designated area of Crown Bay, Haulover

Cay, and St. Thomas Harbor, St. Thomas, USVI, during the event and thus is limited in scope. The special local regulation will be enforced for only a total period of 2.5 hours and thus is limited in time. Although persons and vessels will not be able to enter, transit through, anchor in, or remain within the zone without authorization from the Captain of the Port San Juan or a designated representative, they may operate in the surrounding area during the enforcement period. The rule will allow vessels to seek permission to enter the regulated area. Persons and vessels may still enter, transit through, anchor in, or remain within the regulated area during the enforcement period if authorized by the Captain of the Port San Juan or a designated representative. The Coast Guard will issue a Local Notice to Mariners and a Broadcast Notice to Mariners, allowing mariners to make alternative plans or seek permission to transit the regulated area.

*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 enter, transit through, anchor in, or remain within the regulated area may be small entities, for the reason 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. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section above.

*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 023-01, 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 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 creation of a regulated area in conjunction with a regatta or marine parade to ensure the safety of vessels, spectators, and the public during the event. It is categorically excluded from further review under paragraph L61 in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures. A 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.

*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), 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.T799–0945 to read as follows:

§ 100.T799-0945 Safety zones; St. Thomas Lighted Boat Parade, Crown Bay, Haulover Cut and St. Thomas Harbor, St. Thomas, U.S. Virgin Islands

(a) Location. The following area is a special local regulation: All waters within a 100-foot radius in front of the lead parade vessel, 100-feet behind the last participating parade vessel, and at all times extending 100-feet on either side of participating parade vessels. The St. Thomas Lighted Boat Parade consists of a course that starts at Crown Bay Marina in position 18°19'986"N, 64°57'088"W; proceeds thence east through Halouver Cut, thence northeast through Cay Bay, thence east towards the Coast Guard Base in Kings Wharf and thence west back

through the same route to the beginning position. All coordinates are 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 Captain of the Port San Juan in the enforcement of the regulated areas.

(c) Regulations. (1) All persons and non-participant vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the COTP San Juan or a designated representative.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated areas by contacting the COTP San Juan by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. If authorization is granted by the COTP San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP San Juan or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to

Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement Period. This rule will be enforced from 6:30 p.m. until 9:00 p.m. on December 20, 2019, unless sooner terminated by the COTP San Juan.

Dated: December 16, 2019.

E. P. King,  
Captain, U.S. Coast Guard,  
Captain of the Port San Juan.  
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