

# Rules and Regulations

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG–2012–0898]

RIN 1625–AA08

#### Special Local Regulations; 2012 Holiday Boat Parades, Captain of the Port Miami Zone; FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing five special local regulations during the month of December for holiday boat parades which are scheduled to occur on the navigable waterways in vicinities of Fort Lauderdale, Pompano Beach, Palm Beach, Boynton Beach, Delray Beach, and Miami, Florida. These special local regulations are necessary to protect the public from the hazards associated with marine parades. The special local regulations consist of a series of moving zones, to include buffer areas, around participant vessels as they transit the navigable waters of the United States during these events. Persons and vessels that are not participating in the marine parade are prohibited from entering, transiting through, anchoring in, or remaining within any of the regulated areas unless authorized by the Captain of the Port Miami or a designated representative.

**DATES:** This rule is effective from 12:01 a.m. on December 1, 2012 until 11:30 p.m. on December 31, 2012.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG–2012–0898. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the “SEARCH” box and click

“SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking. 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 rule, call or email Lieutenant Junior Grade Mike H. Wu, Sector Miami Prevention Department, Coast Guard; telephone (305) 535–7576, email [Mike.H.Wu@uscg.mil](mailto:Mike.H.Wu@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

#### A. Regulatory History and Information

On November 8, 2012, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled USCG–2012–0898 in the **Federal Register** (77 FR 2012–66938). No comments on the proposed rule were received. No Public meeting was requested, and none was held.

#### B. Basis and Purpose

(a) The legal basis for the rule is the Coast Guard’s authority to establish special local regulations: 33 U.S.C. 1233.

(b) The purpose of the rule is to provide for the safety of life on the navigable waters during the holiday boat parades in the Captain of the Port Miami Zone.

#### C. Discussion of the Final Rule

The Coast Guard did not receive any comments to the proposed rule, and no changes were made to the regulatory text.

Multiple marine parades are planned for the 2012 holiday season throughout the Captain of the Port Miami Zone. The Coast Guard is establishing five special local regulations for marine parades during the month of December, 2012 within the navigable waters of the Captain of the Port Miami Zone. The

special local regulations are listed below.

1. Fort Lauderdale, Florida. On December 15, 2012, Winterfest, Inc. is hosting the Seminole Hard Rock Winterfest Boat Parade on the New River and the Intracoastal Waterway in Fort Lauderdale, Florida. The marine parade will consist of approximately 120 vessels, and will begin at Cooley’s Landing Marina and transit east on the New River, then head north on the Intracoastal Waterway to Lake Santa Barbara. A special local regulation was previously promulgated at 33 CFR 100.701, however, the promulgated regulation does not extend the special local regulation into the New River, nor does it provide sufficient detail regarding the regulation for the marine parade. Therefore, the special local regulation set forth in 33 CFR 100.701 is inapplicable for this year’s marine parade. The special local regulation consists of a moving zone that will include a buffer zone extending 50 yards ahead of the lead parade vessel, 50 yards astern of the last participant vessel, and 50 yards on either side of the parade. Notice of the special local regulation will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. This special local regulation will be enforced from 2:30 p.m. until 11:30 p.m. on December 15, 2012.

2. Pompano Beach, Florida. On December 9, 2012, Greater Pompano Beach Chamber of Commerce is hosting the Pompano Beach Holiday Boat Parade on the Intracoastal Waterway in Pompano Beach, Florida. The marine parade will consist of approximately 50 vessels. The marine parade will begin at Lake Santa Barbara and transit north on the Intracoastal Waterway to the Hillsboro Bridge. A special local regulation was previously promulgated at 33 CFR 100.701, however, the date of the 2012 marine parade does not correspond with the date published in the Code of Federal Regulations. Therefore, the special local regulation set forth in 33 CFR 100.701 is inapplicable for this year’s marine parade. The special local regulation consists of a moving zone that will include a buffer zone extending 50 yards ahead of the lead parade vessel, 50 yards astern of the last participant vessel, and 50 yards on either side of the parade. Notice of the special local

regulation will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. This special local regulation will be enforced from 5:00 p.m. until 10:00 p.m. on December 9, 2012.

3. Palm Beach, Florida. On December 1, 2012, Marine Industries Association of Palm Beach County is sponsoring the Palm Beach Holiday Boat Parade. The marine parade will be held on the waters of the Intracoastal Waterway in Palm Beach, FL. The marine parade will consist of approximately 60 vessels. The marine parade will begin at Lake Worth Daymark 28 in North Palm Beach and end at Loxahatchee River Daymark 7 east of the Glynn Mayo Highway Bridge in Jupiter, FL. A special local regulation was previously promulgated at 33 CFR 100.701, however, the route of the 2012 marine parade does not correspond with the route published in the Code of Federal Regulations. Therefore, the special local regulation set forth in 33 CFR 100.701 is inapplicable for this year's marine parade. The special local regulation consists of a moving zone that will include a buffer zone extending 50 yards ahead of the lead parade vessel, 50 yards astern of the last participant vessel, and 50 yards on either side of the parade. Notice of the special local regulation will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. The special local regulation will be enforced from 5:30 p.m. until 8:30 p.m. on December 1, 2012.

4. Boynton Beach, Florida. On December 7, 2012, Boynton Beach Community Development Agency is sponsoring the Boynton and Delray Holiday Boat Parade. The marine parade will be held on the waters of the Intracoastal Waterway in Boynton Beach, Florida. The marine parade will consist of approximately 40 vessels. The marine parade will begin at Boynton Inlet and continue south until the C-15 Canal. A special local regulation was previously promulgated at 33 CFR 100.701, however, the date of the 2012 marine parade does not correspond with the date published in the Code of Federal Regulations. Therefore, the special local regulation set forth in 33 CFR 100.701 is inapplicable for this year's marine parade. The special local regulation consists of a moving zone that will include a buffer zone extending 50 yards ahead of the lead parade vessel, 50 yards astern of the last participant vessel, and 50 yards on either side of the parade. Notice of the special local regulation will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. The special local regulation

will be enforced from 6:00 p.m. until 8:00 p.m. on December 7, 2012.

5. Miami, Florida. On December 15, 2012, Miami Outboard Club is sponsoring the Miami Outboard Holiday Boat Parade. The marine parade will be held on the waters of Biscayne Bay, Miami, Florida and the Intracoastal Waterway. The marine parade will consist of approximately 70 vessels. The marine parade will begin at the Miami Outboard Club on Watson Island, head west around Palm Island and Hibiscus Island, head east between Di Lido Island, south through Meloy Channel, west through Government Cut to Bicentennial Park, south to the Dodge Island Bridge, south in the Intracoastal Waterway to Claughton Island, circling back to the north in the Intracoastal Waterway to end at the Miami Outboard Club. A special local regulation was previously promulgated at 33 CFR 100.701, however, the date of the 2012 marine parade does not correspond with the date published in the Code of Federal Regulations. Therefore, the special local regulation set forth in 33 CFR 100.701 is inapplicable for the 2012 marine parade. The special local regulation consists of a moving zone that will include a buffer zone extending 50 yards ahead of the lead parade vessel, 50 yards astern of the last participant vessel, and 50 yards on either side of the parade. Notice of the special local regulation will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. The special local regulation will be enforced from 7:00 p.m. until 11:00 p.m. on December 15, 2012.

Persons and vessels will be prohibited from entering, transiting through, anchoring, or remaining within the five aforementioned moving zones unless authorized by the Captain of the Port Miami or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within any of the moving zones may contact the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within any of the moving zones is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

#### **D. 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 and executive orders.

#### *1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this rule is not significant for the following reasons: (1) No single special local regulation will be enforced in excess of 9 hours, and all five enforcement periods combined will not exceed 23 hours; (2) non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated areas during their respective enforcement periods if authorized by the Captain of the Port Miami or a designated representative; (3) non-participant persons and vessels not able to enter, transit through, anchor in, or remain within the regulated areas without authorization from the Captain of the Port Miami or a designated representative may operate in the surrounding areas during the respective enforcement periods; (4) the moving zones will travel with the marine parades, allowing the enforcement areas to resume normal traffic patterns in a timely manner; and (5) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

#### *2. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 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 rule. 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 may affect the following entities, some of which may be small

entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within any of the special local regulations during the respective enforcement periods. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

### 3. Assistance for Small Entities

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

### 4. 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).

### 5. Federalism

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 determined that this rule does not have implications for federalism.

### 6. 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.

### 7. 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.

### 8. 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.

### 9. Civil Justice Reform

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

### 10. Protection of Children

We have analyzed this rule under Executive Order 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.

### 11. Indian Tribal Governments

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.

### 12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

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

### 14. 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 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 special local regulations issued in conjunction with marine parades. This rule is categorically excluded from further review under paragraph 34(h) and 35(b) 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.

### F. 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 temporary § 100.35T07–0898 to read as follows:

#### § 100.35T07–0898 Special Local Regulations; 2012 Holiday Boat Parades, Captain of the Port Miami Zone; FL.

(a) *Regulated areas.* The following moving zones are regulated areas, with the specified enforcement period for each zone. The identities of the lead parade vessel and the last participating vessel will be provided prior to the marine parade by Broadcast Notice to Mariners.

(1) *Fort Lauderdale, Florida.* All waters within a moving zone that will begin at Cooley's Landing Marina and end at Lake Santa Barbara, which will include a buffer zone extending 50 yards ahead of the lead parade vessel and 50 yards astern of the last participating vessel and 50 yards on either side of the parade. This special local regulation will be enforced from

2:30 p.m. until 11:30 p.m. on December 15, 2012.

(2) *Pompano Beach, Florida.* All waters within a moving zone that will begin at Lake Santa Barbara and head north on the Intracoastal Waterway to end at the Hillsboro Bridge, which will include a buffer zone extending 50 yards ahead of the lead parade vessel and 50 yards astern of the last participating vessel and 50 yards on either side of the parade. This special local regulation will be enforced from 5:00 p.m. until 10:00 p.m. on December 9, 2012.

(3) *Palm Beach, Florida.* All waters within a moving zone that will begin at Lake Worth Daymark 28 in North Palm Beach and end at Loxahatchee River Daymark 7 east of the Glynn Mayo Highway Bridge in Jupiter, FL, which will include a buffer zone extending 50 yards ahead of the lead parade vessel and 50 yards astern of the last participating vessel and 50 yards on either side of the parade. The special local regulation will be enforced from 5:30 p.m. until 8:30 p.m. on December 1, 2012.

(4) *Boynton Beach, Florida.* All waters within a moving zone that will begin at Boynton Inlet and end at the C-15 Canal, which will include a buffer zone extending 50 yards ahead of the lead parade vessel and 50 yards astern of the last participating vessel and 50 yards on either side of the parade. The special local regulation will be enforced from 6:00 p.m. until 8:00 p.m. on December 7, 2012.

(5) *Miami, Florida.* All waters within a moving zone that will transit as follows: the marine parade will begin at the Miami Outboard Club on Watson Island, head west around Palm Island and Hibiscus Island, head east between Di Lido Island, south through Meloy Channel, west through Government Cut to Bicentennial Park, south to the Dodge Island Bridge, south in the Intracoastal Waterway to Claughton Island, circling back to the north in the Intracoastal Waterway to end at the Miami Outboard Club. This will include a buffer zone extending to 50 yards ahead of the lead vessel and 50 yards astern of the last participating vessel and 50 yards on either side of the parade. The special local regulation will be enforced from 7:00 p.m. until 11:00 p.m. on December 15, 2012.

(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 Miami in the enforcement of the regulated area.

(c) *Regulations.* (1) Non-participant persons and vessels are prohibited from entering the moving zones, to include the buffer zones. Non-participant 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 Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(2) 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) *Effective date.* This rule is effective from 12:01 a.m. on December 1, 2012 until 11:30 p.m. on December 31, 2012.

Dated: November 15, 2012.

**C.P. Scraba,**

*Captain, U.S. Coast Guard, Captain of the Port Miami.*

[FR Doc. 2012-28696 Filed 11-26-12; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR PART 165

[Docket No. USCG-2012-0904]

RIN 1625-AA00

#### Safety Zone; Bridge Demolition Project; Indiana Harbor Canal, East Chicago, IN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Indiana Harbor Canal in East Chicago, Indiana. This safety zone is intended to restrict vessels from a portion of the Indiana Harbor Canal due to the demolition Project on the Cline Avenue Bridge. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with the demolition project.

**DATES:** This rule is effective from 6:00 a.m. until 9:00 a.m. on December 1, 2012. This rule will be enforced

between 6:00 a.m. until 9:00 a.m. on December 1, 2012.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2012-0904 and are available online by going to [www.regulations.gov](http://www.regulations.gov), inserting USCG-2012-0904 in the “Keyword” box, and then clicking “search.” They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground floor, Room W12-140, 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 rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414-747-7148 or [Joseph.P.McCollum@uscg.mil](mailto:Joseph.P.McCollum@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

#### A. Regulatory History and Information

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 (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard’s ability to protect vessels from the hazards associated with the demolition project on the Cline Avenue bridge, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for