

Dated: May 2, 2024.

Sean V. Murphy,

Lieutenant, U.S. Coast Guard, Acting Captain of the Port Marine Safety Unit Duluth.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2024-0261]

RIN 1625-AA11

Safety Zones, Lake Erie and Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish temporary safety zones for certain waters of Lake Erie, Cleveland Harbor, and the Cuyahoga River. This action is necessary to provide for the safety of life on these navigable waters near Cleveland, Ohio during the 2024 Pan-American Masters Games (Aquatic Sporting Events) from July 12 through July 15, 2024. This proposed rulemaking would prohibit persons and vessels from entering these safety zones unless authorized by the Captain of the Port Sector Eastern Great Lakes or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before June 7, 2024.

ADDRESSES: You may submit comments identified by docket number USCG-2024-0261 using the Federal Decision-Making 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. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, contact LT Jared Stevens, Waterways Management Division, MSU Cleveland, U.S. Coast Guard; via telephone at 216-937-0124, or by email at Jared.M.Stevens@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
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On January 22, 2024, the Greater Cleveland Sports Commission notified the Coast Guard that it will be hosting the 2024 Pan-American Masters Games (Aquatic Sporting Events) from July 12 through July 15, 2024. The five (5) Aquatic Sporting Events will be: Sailing, Triathlon (swim portion), Stand Up Paddleboard—Technical, Stand-Up Paddleboard—Distance, and Rowing. These events are to take place in Lake Erie, Cleveland Harbor's East Basin Channel, Edgewater Beach, and the Cuyahoga River in Cleveland, Ohio. The Captain of the Port Sector Eastern Great Lakes has determined that safety zones covering certain navigable waters of Lake Erie, the Cleveland Harbor East Basin, and the Cuyahoga River in Cleveland, Ohio, are needed to protect participants during the 2024 Pan-American Masters Games' Aquatic Events.

The purpose of this rulemaking is to ensure the safety of participants, vessels, and the navigable waters before, during, and after the scheduled events. The Coast Guard is proposing this rulemaking under its authority granted in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The Captain of the Port Sector Eastern Great Lakes (COTP) is proposing to establish the following safety zones covering certain navigable waters of Lake Erie, including the Cleveland Harbor East Basin Channel, Edgewater Beach, and the Cuyahoga River. The duration and location of these zones are intended to ensure the safety of participants on these navigable waters before, during, and after each of the 2024 Pan-American Masters Games' aquatic sporting events. The zones may require enforcement beyond the stated times if the marine events run into unforeseen delays. No vessel or person would be permitted to enter the safety zones listed directly below without permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

(1) *Sailing:* The boundaries of the four (4) sailing race course safety zones are: "Area 1" centered on 41°30'50.4" N, 081°45'00.0" W with a radius of 2,700 yards, "Area 2" centered on 41°33'00.0" N, 081°45'00.0" W with a radius of 2,700 yards, "Area 3" centered on 41°34'01.2"

N, 081°38'24.0" W with a radius of 2,700 yards, and "Area 4" which forms a rectangle of which the four corners of the polygon would be located in positions: (1) 41°30'49.64" N, 081°42'9.81" W; (2) 41°32'37.78" N, 081°39'33.01" W, (3) 41°32'20.99" N, 081°38'49.79" W, (4) 41°30'42.27" N, 81°42'01.59" W. The COTP is proposing to establish the safety zones for Areas 1, 2, and 3 from 7:30 a.m. to 5:00 p.m. on July 12 through July 14, and the safety zone for Area 4 from 11:30 a.m. to 3:30 p.m. on July 13, 2024.

(2) *Triathlon:* The boundaries of the safety zone would form a rectangle of which the four corners of the polygon would be located in the following positions: The boundaries of the safety zone form a rectangle with the four corners of the polygon located in the following positions: (1) 41°29'15.76" N, 081°44'46.34" W; (2) 41°29'27.96" N, 081°44'49.87" W, (3) 41°29'31.98" N, 081°44'24.01" W, (4) 41°29'27.46" N, 81°44'22.51" W. The COTP is proposing to establish this safety zone from 1:30 p.m. to 4:30 p.m. on July 13, 2024, and again from 5:30 a.m. to 9:30 a.m. on July 14, 2024.

(3) *Stand Up Paddleboard—Technical:* The boundaries of the safety zone form a rectangle with the four corners of the polygon located in the following positions: (1) 41°29'15.76" N, 081°44'46.34" W; (2) 41°29'27.96" N, 081°44'49.87" W, (3) 41°29'31.98" N, 081°44'24.01" W, (4) 41°29'27.46" N, 81°44'22.51" W. The COTP is proposing to establish the safety zone from 5:30 a.m. to 12:30 p.m. on July 13, 2024, with a back-up rain day from 5:30 a.m. to 12:30 p.m. on July 15, 2024.

(4) *Stand Up Paddleboard—Distance:* The safety zone would cover all navigable waters of the Cuyahoga River in Cleveland, Ohio between the following two boundaries, which are formed by lines extending perpendicular from bank to bank, centered on: (1) 41°29'55.37" N, 081°42'21.26" W (near the Route 2 Bridge), and (2) 41°29'14.79" N, 081°40'47.87" W (near Marathon Bend). The COTP is proposing to establish the safety zone from 12:30 p.m. to 5:30 p.m. on July 14, 2024.

(5) *Rowing:* The safety zone would cover all navigable waters of the Cuyahoga River in Cleveland, Ohio between the following two boundaries, which are formed by lines extending perpendicular from bank to bank, centered on: (1) 41°29'35.09" N, 081°42'14.19" W (near Center Street Bridge), and (2) 41°29'23.64" N, 081°41'37.28" W (near Carnegie Avenue Bridge). The COTP is proposing to

establish the safety zone from 5:30 a.m. to 1:30 p.m. on July 14, 2024.

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. This NPRM has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, and duration of the proposed rule. These safety zones would restrict navigation through the five (5) Aquatic Sports areas: (1) Sailing for eight (8) hours on one day, and nine and one-half (9.5) hours on three (3) days; (2) Triathlon for three (3) hours on one day, and four (4) hours on one day; (3) Stand Up Paddleboard—Technical for seven (7) hours on one day; (4) Stand Up Paddleboard—Distance for five (5) hours on one day; and (5) Rowing for eight (8) hours on one day.

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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the proposed 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. 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 call or email 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 potential effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed 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 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 the following safety zones:

(1) *Sailing*: (1) safety zones lasting 9.5 hours each day that would prohibit entry in, out or thorough the Lake Erie sailing race Areas 1–3 north of Cleveland, Ohio on July 12 through July 14, 2024, and (2) a safety zone lasting 4.0 hours that would prohibit entry in, out, or through the Cleveland Harbor East Basin.

(2) *Triathlon*: safety zone lasting 3.0 hours that would prohibit entry in, out, or through waters of Lake Erie adjacent to Edgewater Beach in Cleveland, Ohio on July 13, 2024, and then again for 4.0 hours on July 14, 2024.

(3) *Stand Up Paddleboard—Technical*: safety zone lasting 7.0 hours that would prohibit entry in, out, or through waters of Lake Erie adjacent to Edgewater Beach in Cleveland, Ohio on July 13, 2024.

(4) *Stand Up Paddleboard—Distance*: safety zone lasting 5.0 hours that would prohibit entry in, out, or through the Cuyahoga River near the Route 2 Bridge (adjacent to Great Lakes Water Sports) to Marathon Bend on July 14, 2024.

(5) *Rowing*: safety zone lasting 8.0 hours that would prohibit entry in, out, or through the Cuyahoga River from the Center Street Bridge to the Carnegie Avenue Bridge on July 14, 2024.

Normally such actions are categorically excluded from further review under paragraph L63a of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary 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. 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 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.

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.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG–2024–0261 in the search box and click “Search.” Next, look for this document in the Search Results column,

and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a “Subscribe” option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in

response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 70124, 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T09–0261 to read as follows:

§ 165.T09–0261 Safety Zones, Lake Erie and Cuyahoga River, Cleveland, OH.

(a) *Location and enforcement period.* The following safety zones will be enforced from July 12, 2024, through July 15, 2024, as described in paragraphs (a)(1) through (5) of this section within the Captain of the Port Zone Eastern Great Lakes (COTP) in the vicinity of Cleveland, Ohio.

Event	Location ¹	Enforcement dates and times ²	
(1)	Sailing	(i) Lake Erie: All navigable waters within a 2,700 yd radius centered on the following points: “Area 1” centered on 41°30’50.4” N, 081°45’00.0” W, “Area 2” centered on 41°33’00.0” N, 081°45’00.0” W, and “Area 3” centered on 41°34’01.2” N, 081°38’24.0” W; and. (ii) Cleveland Harbor East Basin: “Area 4” All navigable waters within a rectangle with the four corners of the polygon located in the following positions: (1) 41°30’49.64” N, 081°42’9.81” W; (2) 41°32’37.78” N, 081°39’33.01” W, (3) 41°32’20.99” N, 081°38’49.79” W, (4) 41°30’42.27” N, 81°42’01.59” W.	“Areas 1–3” July 12–14 from 7:30 a.m. to 5 p.m. “Area 4” July 13 from 11:30 a.m. to 3:30 p.m.
(2)	Triathlon	All navigable waters of Lake Erie adjacent to Edgewater Beach in Cleveland, Ohio, within a rectangle of which the four corners of the polygon are located in the following positions: (1) 41°29’15.76” N, 081°44’46.34” W; (2) 41°29’27.96” N, 081°44’49.87” W, (3) 41°29’31.98” N, 081°44’24.01” W, (4) 41°29’27.46” N, 81°44’22.51” W.	July 13, from 1:30 p.m. to 4:30 p.m. and again on July 14 from 5:30 a.m. to 9:30 a.m.
(3)	Stand Up Paddleboard—Technical..	All navigable waters of Lake Erie adjacent to Edgewater Beach in Cleveland, Ohio, within a rectangle of which the four corners of the polygon are located in the following positions: (1) 41°29’15.76” N, 081°44’46.34” W; (2) 41°29’27.96” N, 081°44’49.87” W, (3) 41°29’31.98” N, 081°44’24.01” W, (4) 41°29’27.46” N, 81°44’22.51” W.	July 13 from 5:30 a.m. to 12:30 p.m. with a back-up rain day on July 15 from 5:30 a.m. to 12:30 p.m.
(4)	Stand Up Paddleboard—Distance.	All navigable waters of the Cuyahoga River in Cleveland, Ohio between the following two boundaries, which are formed by lines extending perpendicular from bank to bank, centered on: (1) 41°29’55.37” N, 081°42’21.26” W (near the Route 2 Bridge), and (2) 41°29’14.79” N, 081°40’47.87” W (near Marathon Bend).	July 14 from 12:30 p.m. to 5:30 p.m.

Event	Location ¹	Enforcement dates and times ²	
(5)	Rowing	All navigable waters of the Cuyahoga River in Cleveland, Ohio between the following two boundaries, which are formed by lines extending perpendicular from bank to bank, centered on: (1) 41°29'35.09" N, 081°42'14.19" W (near Center Street Bridge), and (2) 41°29'23.64" N, 081°41'37.28" W (near Carnegie Avenue Bridge).	July 14 from 5:30 a.m. to 1:30 p.m.

¹ All coordinates listed in paragraphs (a)(1) through (5) reference Datum NAD 1983.

² The enforcement dates and times for each of the listed safety zones are subject to change. In the event of a change, the COTP will provide notice to the public by issuing a Broadcast Notice to Mariner and by updating the Local Notice to Mariners (if practicable).

(b) *Definitions. Official Patrol Vessel* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the COTP, in the enforcement of the regulations in this section. *Participant* means all persons and vessels attending the event.

(c) *Regulations.* (1) The Coast Guard may patrol the event areas under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF-FM (156.8 MHz) by the call sign "PATCOM."

(2) All persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The "official patrol vessels" consist of any Coast Guard, state or local law enforcement

and sponsor provided vessels designated or assigned by the Captain of the Port Sector Eastern Great Lakes, to patrol the event.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer; spectator vessels will be operated at a no-wake speed in a manner which will not endanger participants in the event or any other craft.

(4) No spectator shall anchor, block, loiter, or impede the through-transit of official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) The Patrol Commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop

and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Any spectator vessel may anchor outside the regulated areas specified in this chapter, but may not anchor in, block, or loiter in a navigable channel.

(7) The Patrol Commander may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) The Patrol Commander will terminate enforcement of the special regulations at the conclusion of each individual event.

Dated: May 2, 2024.

M.I. Kuperman,

Captain, U.S. Coast Guard, Captain of the Port Eastern Great Lakes.

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