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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100, 117, and 165

[CGD09-03-208]

RIN 1625-AA08
RIN 1625-AA09
RIN 1625-AA00

Toledo Tall Ships Parade, July 16, 2003, Port of Toledo, OH

AGENCY: Coast Guard, DHS.
ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations, including an exclusionary area and spectator anchorage areas, a regulated navigation area, as well as drawbridge regulations for the Parade of Sail Toledo 2003 in the Port of Toledo, Ohio, on July 16, 2003. These regulations are necessary to promote the safe navigation of vessels and the safety of life and property during the heavy volume of vessel traffic expected during this event. These regulations are intended to restrict vessel traffic from a portion of Lake Erie and the Maumee River.

DATES: This rule is effective from 9 a.m. on July 16, 2003 through 5 p.m. on July 20, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09-03-208 and are available for inspection of copying at U.S. Coast Guard Marine Safety Office (MSO) Toledo, 420 Madison Ave, Suite 700, Toledo, Ohio 43604 between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: LT Herb Oertli, Chief of Port Operations, MSO Toledo, at (419) 418-6050.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 20, 2003, we published a notice of proposed rule making (NPRM)

entitled Toledo Tall Ships Parade 2003, Port of Toledo, OH in the **Federal Register** (68 FR 27498). We did not receive any letters commenting on the proposed rule. No public hearing was requested, and none was held.

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 contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments with regard to this event.

Background and Purpose

These temporary special local regulations are for the Toledo 2003 Tall Ships Parade of Sail that will be held in the Maumee River from 9 a.m. through 7 p.m. on July 16, 2003. These regulations will assist in providing for the safety of life on navigable waters and to protect commercial vessels, tall ships, spectators, and the Port of Toledo during this event.

American Sail Training Association is sponsoring Sail Toledo 2003. The scheduled events will occur July 16, 2003 in the Port of Toledo and surrounding waters. This event will consist of a Parade of Sail from the mouth of the Maumee River to Independence Park. The parade route will originate in Maumee Bay and continue inbound up the Maumee Bay and Maumee River channel to various berths throughout the Port of Toledo.

The Coast Guard expects several hundred spectator crafts to attend the parade of sail and tall ship celebration. The regulations will create temporary anchorage regulations and vessel movement controls through the regulated area. The regulations will be in effect from 9 a.m. through 7 p.m. on July 16, 2003. Vessel congestion, due to the anticipated large number of participating and spectator vessels, introduces extra or unusual hazards during this event pose a significant threat to the safety of life. This rulemaking is necessary to ensure the safety of life on the navigable waters of the United States.

The Coast Guard is establishing regulated areas in the Maumee River that will be in effect during the Toledo Parade of Sail 2003 event. These regulated areas are needed to permit unrestricted law enforcement vessel access to support facilities. Additionally, the regulated areas will protect the maritime public and participating vessels from possible hazards to navigation associated with the dense vessel traffic.

The regulated area will cover all portions of the Maumee River upriver of a line drawn between north-east corner of Grassy Island at 41°42'24" N, 083°26'48" W and the south-west corner of Spoil area at 41°42'17" N, 083°26'38" W to the downriver side of the Anthony Wayne Bridge. All coordinates are based upon North American Datum 1983 (NAD 83). This temporary regulated area would be in effect from 9 a.m. through 7 p.m. on July 16, 2003.

On July 16, 2003, following the Parade of Sail, restrictions on vessels on the Maumee River will reopen in sequence with the movement and mooring of the final flotilla of tall ships. After the final flotilla of tall ships have passed the Martin Luther King, Jr. Bridge, vessel operators anchored in spectator anchorages north of the Martin Luther King Bridge may depart for locations outside of the Maumee River. After the final flotilla of tall ships has safely moored, vessel operators may transit the Maumee River. Vessels transiting the Maumee River must proceed as directed by on-scene Coast Guard personnel.

The Coast Guard is establishing spectator anchorage areas for spectator craft. All other vessels except those viewing the Parade of Sail Toledo 2003 are restricted from using these spectator anchorages. These spectator anchorage areas will be in effect on July 16, 2003.

To ensure the safety of the participating vessels during the parade, there will be two prolonged bridge openings on July 16, 2003. The CSX railroad bridge at mile 1.07, the Norfolk & Southern railroad bridge at 1.80, the Craig Memorial bridge at mile 3.30, and the Martin Luther King Memorial (a.k.a. Cherry Street) bridge at mile 4.30 will remain open from 12 p.m. until 1:30 p.m. and then from 2 p.m. until 3:30 p.m. Having two prolonged openings

will accommodate participating vessels while at the same time allowing for both vehicular and pedestrian traffic the opportunity to cross the bridges during the parade.

Discussion of Comments and Changes

No comments were received and no changes were made to this rule.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of the Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

While this rule imposes traffic restrictions in portions of the Maumee River during the events, the effect of this regulation will not be significant for the following reasons: The regulated areas, spectator anchorages, will be limited in duration; and extensive advance notice will be made to the maritime community via Local Notice to Mariners, facsimile, marine safety information broadcasts, local Port Operators Group meetings, the Internet, and Toledo area newspapers and media. The advance notice will permit mariners to adjust their plans accordingly. Additionally, these regulated areas are tailored to impose the least impact on maritime interests without compromising safety.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), an initial review was conducted to determine whether this rule would have a significant economic impact on a substantial number of small entities. 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.

For the reasons stated in the Regulatory Evaluation section above, 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 will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in

portions of Maumee River during various times on July 16, 2003. These regulations will not have a significant economic impact on a substantial number of small entities because the Coast Guard will notify the public via mailings, facsimiles, Local Notice to Mariners, marine safety information broadcasts, local Port Operators Group meetings, the media, the Internet, and Toledo area newspapers. In addition, the sponsoring organization, Huntington Toledo Tall Ships 2003, plans to announce event information in local newspapers, pamphlets, and television and radio broadcasts. This advance notice will permit mariners to adjust their plans accordingly. Although these regulations will apply to a substantial portion of the Port of Toledo, areas for viewing the Parade of Sail, are being established to maximize the use of the waterways by commercial vessels that usually operate in the affected areas.

If you think that your businesses, organization, or governmental jurisdiction qualifies as a small entity and believe that this rule would significantly impact them may submit a comment (see ADDRESSES) explaining why they think they qualify and how and to what degree this rule would economically affect them.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard aims to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Herb Oertli, MSO Toledo, at (419) 418–6040.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

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 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

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.

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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it

does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, paragraphs 34 (f, g, and h) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A written "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

List of Subjects

33 CFR Part 100

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

33 CFR Part 117

Bridges.

33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100, 117, and 165 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 through 1236; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 100.T09-208 to read as follows:

§ 100.T09-208 Regulated area, Toledo Tall Ships Parade 2003, Port of Toledo, OH.

(a) *Definitions*—(1) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, U.S. Coast Guard Group Detroit.

(2) *Regulated Area.* All waters of the Maumee River between a line drawn between north-east corner of Grassy Island at 41°42'24" N, 083°26'48" W and the south-west corner of Spoil area at 41°42'17" N, 083°26'38" W; to the downriver side of the Anthony Wayne Bridge at mile 4.30 (NAD 83).

Note to paragraph (a)(2) of this section: Mariners are cautioned that these areas being established as spectator areas have not been subject to any special survey or inspection and that charts may not show all obstructions or the shallowest depths. In addition, substantial currents may exist in these spectator areas and not all portions of these areas are over good holding ground. Mariners

are advised to take appropriate precautions when using these spectator areas.

(3) *Spectator Vessel Anchorage Areas.*

(i) *Area A.* All waters of Maumee River south of Grassy Island, bounded by the following: Beginning at 41°41.56' N, 083°28.35' W; then south-east to 41°41.52' N, 083°28.29' W; then south-west to 41°41.18' N, 083°28.73' W; then north-west to 41°41.23' N, 083°28.8' W; then back to the beginning (NAD 83).

(ii) *Area B.* All waters of Maumee River bounded by the following: Beginning at 41°41.06' N, 083°29.04' W; then south-east to 41°41.01' N, 083°28.96' W; then south-west to 41°40.61' N, 083°29.38' W; then north-west to 41°40.661' N, 083° 29.45' W; then back to the beginning (NAD 83).

(iii) *Area C.* All waters of the Maumee River bounded by the following: Beginning at 41°40.48' N, 083°29.66' W; then south-east to 41°40.43' N, 083°29.56' W; then south-west to 41°40.18' N, 083°29.89' W; then north-west to 41°40.24' N, 083°29.98' W; then back to the beginning (NAD 83).

(iv) *Area D.* All waters of the Maumee River bounded by the following: Beginning at 41°39.22' N, 083°31.51' W; then south-east to 41°39.16' N, 083°31.45' W; then south-west to 41°39.09' N, 083°31.58' W then north-west to 41°39.14' N, 083°31.63' W; then back to the of beginning (NAD 83).

(b) *Special Local Regulations.* (1)

Except for vessels officially participating in the Toledo Tall Ships Parade 2003, or those vessels in designated spectator areas, no person or vessel may enter or remain in the regulated area without the permission of the Coast Guard Patrol Commander.

(2) Vessels in any spectator area shall proceed at no wake speeds not to exceed five miles per hour, unless otherwise authorized by the Captain of the Port.

(3) Vessel operators shall comply with the instructions of on-scene Coast Guard patrol personnel.

(4) After completion of the Parade of Sail on July 16, 2003, vessel operators within the Regulated Area are prohibited from passing outbound patrol vessels showing blue lights.

(5) Anchorage Area D, in paragraph (a)(3)(iv) of this section, is restricted for the use of those vessels officially participating in Parade of Sail Toledo 2003 activities. No other vessels will be permitted in Spectator Area D without permission of the Captain of the Port.

(6) Vessels, except emergency, law enforcement, and those authorized by the Captain of the Port, may not transit through the Regulated Area.

(7) Vessels must vacate all spectator areas after the termination of the effective period for this regulation.

(8) Vessels must mark with an identifiable buoy any anchors, which have been fouled on obstructions if such anchors cannot be freed or raised.

(9) Vessels that would like to view the tall ship events occurring in Maumee Bay prior to the tall ships entering the Maumee River must use Spectator Area A.

(10) Vessels are not to be left unattended in any spectator area at any time.

(11) Vessels are prohibited from securing to or tying off to any buoy or any other vessel within any spectator area.

(12) Vessels should maintain at least twenty (20) feet of clearance if maneuvering between anchored vessels.

(13) Vessels are prohibited from blocking access to any designated emergency medical evacuation areas.

(c) *Effective period.* This rule is effective from 9 a.m. July 16, 2003 until 5 p.m. on July 20. This section will be enforced from 9 a.m. until 7 p.m. on July 16, 2003.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 3. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1(g); Section 117.255 also issued under authority of Pub. L. 102-587, 106 Stat. 5039; Department of Homeland Security Delegation No. 0170.1.

■ 4. From 12 p.m. until 3:30 p.m., Wednesday, July 16, 2003, suspend § 117.855, and add temporary § 117.856 to read as follows:

§ 117.856 Maumee River.

(a) The draws of the CSX Transportation railroad bridge, mile 1.07, Norfolk Southern railroad bridge, mile 1.80, Craig Memorial highway bridge, mile 3.30, and the Martin Luther King Memorial Bridge (a.k.a. Cherry Street highway Bridge), mile 4.30, will open from 12 p.m. until 1:30 p.m. and then again from 2 p.m. until 3:30 p.m.

(b) The draw of the Norfolk Southern railroad bridge, mile 5.76, shall open on signal.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 6. Add temporary § 165.T09-208 to read as follows:

§ 165.T09–208 Regulated Navigation Area; Toledo Tall Ships 2003, Toledo, Ohio.

(a) *Regulated navigation area.* (1) *Location.* All waters of Maumee River between the downriver side of the Anthony Wayne Memorial Bridge (mile 5.16) and the upriver side of the Martin Luther King Jr. Bridge (a.k.a Cherry Street Bridge)(mile 4.3).

(2) *Enforcement period.* This rule is effective from 9 a.m. on July 16, 2003 until 5 p.m. on July 20, 2003. This section will be enforced from 5 p.m. on July 16, 2003 until 5 p.m. on July 20, 2003.

(b) *Special regulations.* Vessels within the RNA shall not exceed 5 miles per hour or shall proceed at no-wake speed, which ever is slower. Vessels within the RNA shall not pass within 20 feet of a moored tall ship. Vessels within the RNA must adhere to the direction of the Patrol Commander or other official patrol craft.

Dated: July 7, 2003.

Ronald F. Silva,

*Rear Admiral, Coast Guard Commander,
Ninth Coast Guard District.*

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Parts 110 and 165**

[CGD09–03–207]

RIN 1625–AA01

RIN 1625–AA00

Tall Ships 2003, Navy Pier, Chicago, IL, July 30–August 4, 2003

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area (RNA), a moving safety zone and temporarily suspending two anchorage areas encompassed by the RNA for the 2003 Tall Ships Challenge. These regulations are necessary to control vessel traffic in the immediate vicinity for the protection of both participant and spectator vessels during the 2003 Tall Ships Challenge and Parade of Ships. These regulations are intended to restrict vessel traffic in a portion of Lake Michigan in the vicinity of Chicago Harbor for the duration of the event.

DATES: This rule is effective from 10 a.m. on July 30, 2003 through 5 p.m. August 3, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–03–207 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, IL 60527, between 8 a.m. and 4 p.m. Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Kenneth Brockhouse, MSO Chicago, at (630) 986–2155.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On May 20, 2003, we published a notice of proposed rule making (NPRM) entitled Tall Ships 2003, Navy Pier, Lake Michigan, Chicago, IL in the **Federal Register** (68 FR 27501). We did not receive any letters commenting on the proposed rule. No public hearing was requested, and none was held.

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 contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments with regard to this event.

Background and Purpose

During the Chicago Tall Ships event, tall ships will be participating in a Tall Ships Parade and then mooring in Chicago harbor and in the Chicago River. A Regulated navigation area (RNA) will be established that encompasses portions of both the Chicago Harbor as well as the Chicago River to protect those boarding the tall ships as well as spectator vessels from vessels transiting at excessive speeds creating large wakes, and also to prevent obstructed waterways. The RNA will be established on July 30, 2003 and terminate on August 3, 2003 after all the tall ships have departed the area.

A moving safety zone will be established around those vessels officially participating in the Tall Ships Parade of Ships. The Parade of Ships is the start of the Tall Ships 2003 in Chicago, Illinois and a large number of spectator vessels are expected. The parade will include approximately 20 to 30 tall ships and will take place starting on the morning of July 30, 2003 until the evening of July 30, 2003.

Discussion of Comments and Changes

No comments were received and no changes were made to this rule.

Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 on Regulatory Planning and Review and therefore does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed this rule under that Order. It is non-significant under Department of Homeland Security regulatory policies and procedures. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone.

Small Entities

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612) has determined that this rule will not have a significant impact on a substantial number of small entities. 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 final rule would not have a significant economic impact on a substantial number of small entities. This final rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of an activated safety zone. The safety zone and suspended anchorage area would not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic can safely pass outside the proposed safety zone during the event. Traffic would be allowed to pass through the safety zone only with the permission of the Captain of the Port or his on scene representative which will be the Patrol Commander. In addition, before the effective period, the Coast Guard would issue maritime advisories widely available to users who might be in the affected area.

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*