

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

**PART 1—INCOME TAXES**

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.1001-4 is revised to read as follows:

**§ 1.1001-4 Modifications of certain derivative contracts.**

(a) through (d) [Reserved]. For further guidance, see § 1.1001-4T(a) through (d).

■ **Par. 3.** Section 1.1001-4T is added to read as follows:

**§ 1.1001-4T Modifications of certain derivative contracts (temporary).**

(a) *Certain assignments.* For purposes of § 1.1001-1(a), the transfer or assignment of a derivative contract is not treated by the nonassigning counterparty as a deemed exchange of the original contract for a modified contract that differs materially either in kind or in extent if—

(1) Both the party transferring or assigning its rights and obligations under the derivative contract and the party to which the rights and obligations are transferred or assigned are either a dealer in securities or a clearinghouse;

(2) The terms of the derivative contract permit the transfer or assignment of the contract, whether or not the consent of the nonassigning counterparty is required for the transfer or assignment to be effective; and

(3) The terms of the derivative contract are not otherwise modified in a manner that results in a taxable exchange under section 1001.

(b) *Definitions.* (1) *Dealer in securities.* For purposes of this section, a *dealer in securities* is a taxpayer who meets the definition of a dealer in securities in section 475(c)(1).

(2) *Clearinghouse.* For purposes of this section, a *clearinghouse* is a derivatives clearing organization (as such term is defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) or a clearing agency (as such term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))) that is registered, or exempt from registration, under each respective Act.

(3) *Derivative contract.* For purposes of this section, a *derivative contract* is a contract described in section

475(c)(2)(D), 475(c)(2)(E), or 475(c)(2)(F) without regard to the last sentence of section 475(c)(2) referencing section 1256.

(c) *Consideration for the assignment.* Any consideration for the transfer or assignment that passes between the party transferring or assigning its rights and obligations under the contract and the party to which the rights and obligations are transferred or assigned will not affect the treatment of the nonassigning counterparty for purposes of this section.

(d) *Effective/applicability date.* This section applies to transfers or assignments of derivative contracts on or after July 22, 2011.

(e) *Expiration date.* The applicability of this section expires on or before July 21, 2014.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 15, 2011.

**Emily S. McMahon,**

*Assistant Secretary of the Treasury (Tax Policy).*

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100**

[USCG-2011-0648]

RIN 1625-AA08

**Special Local Regulations; Port Huron to Mackinac Island Sail Race**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard will establish a temporary special local regulation for the annual Port Huron to Mackinac Island Sail Race. This action is necessary to safely control vessel movements in the vicinity of the race's starting point and to provide for the safety of the general boating public and commercial shipping. No person or vessel may enter the regulated area without the permission of the Ninth District Commander or the Coast Guard Patrol Commander (PATCOM).

**DATES:** This temporary final rule is effective from 9 a.m. through 4 p.m. on July 23, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0648 and are available online by going

to <http://www.regulations.gov>, inserting USCG-2011-0648 in the Docket ID box, and then clicking "Search." This material is 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 concerning this temporary rule, call or e-mail Mr. Frank Jennings, Jr., Auxiliary and Boating Safety Branch, Ninth Coast Guard District, via e-mail at: [Frank.T.Jennings@uscg.mil](mailto:Frank.T.Jennings@uscg.mil) or by phone at (216) 902-6094. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:****Regulatory 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 is unnecessary and contrary to the public interest. Publishing an NPRM for this rule is unnecessary and contrary to the public interest because the event is well-known, non-controversial, and the impact of the regulation on navigation and the public is very low. This event is well-known in the community. This year will be the 87th annual running of this race, and regulations have been published relating to this event since 1995. From 1995 to 2008, this event was listed in a recurring marine events list in the Code of Federal Regulations. This event is non-controversial. In the various regulations and notices published for this event in the last sixteen years, no negative comments have ever been received and few, if any Notices of Violation have been issued. This regulation will have very little impact on the boating public. The regulation is for less than one day, for a regulated area which remains open to navigation, though subject to the control of the Patrol Commander.

The Coast Guard is currently engaged in a revision of the permanent regulation for this recurring annual event. While this event has taken place annually for some time, the Special Local Regulation for the event has undergone significant changes in the last several years. While these changes are in process, Temporary Final Rules are being used to protect event participants and the public from the hazards associated with the event.

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 reasons discussed in the preceding paragraphs, waiting 30 days for this rule to become effective is unnecessary and contrary to the public interest.

### Background and Purpose

The Port Huron to Mackinac boat race (officially titled the "Bell's Beer Bayview Mackinac Race") will set sail on Saturday, July 23, 2011. Over 200 sailboats are expected to take part in this regatta, which starts in Port Huron. The Ninth District Commander has determined that the high concentration of participants and spectators at the race's starting point poses extra and unusual hazards to the boating public. The likely combination of congested waterways, vessels engaged in a regatta, and fast currents could result in serious injuries or fatalities.

### Discussion of Rule

With the aforementioned hazards in mind, the Ninth District Commander will enforce special local regulations in the vicinity of the race's starting point from 9 a.m. until 4 p.m. on July 23, 2011. The special local regulations apply to the waters of the Black River, St. Clair River and lower Lake Huron bounded by a line starting at: latitude 042°58'47" N, longitude 082°26'00" W; then easterly to latitude 042°58'24" N, longitude 082°24'47" W; thence northward along the International Boundary to latitude 043°02'48" N, longitude 082°23'47" W; then westerly to the shoreline at approximate location latitude 043°02'48" N, longitude 082°26'48" W; thence southward along the U.S. shoreline to latitude 042°58'54" N, longitude 082°26'01" W; then back to the beginning. All coordinates reference the North American Datum of 1983 (NAD 83).

In order to ensure the safety of spectators and participating vessels, this special local regulation will be in effect for the first day of the event. The Coast Guard will patrol the race area under the direction of a designated Coast

Guard Patrol Commander (PATCOM). Any vessel desiring to transit the regulated area, including commercial vessels, may do so only with prior approval of the PATCOM and only when so directed by the PATCOM. The PATCOM may be contacted on VHF-FM Channel 16 (156.8 MHz) by the call sign "Coast Guard Patrol Commander."

Vessels allowed to enter the regulated area will be operated at a no wake speed to reduce the wake to a minimum and in a manner that will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### 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 that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that during the short time this zone will be in effect, it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel or legal policy issue. These conclusions are based on this special local regulation's short and temporary nature along with its application to only those waters in the vicinity of the race's starting point. Plus, vessels may still pass through the regulated area with permission from the PATCOM. Finally, the Coast Guard expects the public to be well aware of this event and thus, able to plan accordingly.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered 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.

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 may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Black River, St. Clair River, and lower Lake Huron from 9 a.m. until 4 p.m. July 23, 2011.

These special local regulations will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be enforced for only 7 hours on a weekend when the majority of vessel traffic transiting the area is recreational; vessel traffic will be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander; and before the effective period, the Coast Guard will issue maritime advisories widely to users of the river.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. 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.

### 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 (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.

## Taking of Private Property

This rule will not affect 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 create 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 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.

## 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded 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 is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves a special local regulation issued in conjunction with a regatta or marine parade, and thus, paragraph 34(h) applies. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

## 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 § 100.35T09–0648 to read as follows:

#### § 100.35T09–0648 Special Local Regulations; Port Huron to Mackinac Island Sail Race.

(a) *Location.* The special local regulations apply to the waters of the Black River, St. Clair River, and lower Lake Huron starting at: Latitude 042°58'47" N, longitude 082°26'00" W; then easterly to latitude 042°58'24" N, longitude 082°24'47" W; thence northward along the International Boundary to latitude 043°02'48" N, longitude 082°23'47" W; then westerly to the shoreline at approximate location latitude 043°02'48" N, longitude 082°26'48" W; thence southward along the U.S. shoreline to latitude 042°58'54" N, longitude 082°26'01" W; then back to the beginning [DATUM: NAD 83].

(b) *Enforcement period.* This rule will be enforced from 9 a.m. to 4 p.m. on July 23, 2011.

(c) *Regulations.* (1) In accordance with the general regulations in § 100.35 of this part, the Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander (PATCOM). The PATCOM may be contacted on VHF–FM Channel 16 (156.8 MHz) by the call sign “Coast Guard Patrol Commander.” Vessels desiring to enter or transit the regulated area may do so only with prior approval of the PATCOM and only when so directed by that officer.

(2) Vessels allowed to enter the regulated area will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules in this subparagraph shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

(3) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard PATCOM shall serve as a signal to stop. Vessels so signaled shall stop and shall comply with the orders of the PATCOM. Failure to do so may result in expulsion from

the regulated area, citation for failure to comply, or both.

(4) The PATCOM may establish vessel size and speed limitations and operating conditions. The PATCOM may restrict vessel operation within the regulated area to vessels having particular operating characteristics. The PATCOM may terminate the marine event or the operation of vessel at any time it is deemed necessary for the protection of life and property.

Dated: July 12, 2011.

**J.R. Bingham,**

*Captain, U.S. Coast Guard, Acting  
Commander, Ninth Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0573]

RIN 1625-AA00

#### Safety Zone; Kathleen Whelan Wedding Fireworks, Lake St. Clair, Grosse Pointe Farms, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Lake St. Clair, Grosse Pointe Farms, MI. This zone is intended to restrict vessels from a portion of Lake St. Clair during the Kathleen Whelan Wedding Fireworks.

**DATES:** This rule is effective from 9:30 p.m. through 10 p.m. on July 23, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0573 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0573 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, call or e-mail LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568-9523, e-mail [Adrian.F.Palomeque@uscg.mil](mailto:Adrian.F.Palomeque@uscg.mil). If you

have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory 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 waiting for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public from the hazards associated with maritime fireworks displays.

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 impracticable and contrary to the public interest because it would inhibit the Coast Guard from ensuring the safety of vessels and the public during the fireworks display.

##### Background and Purpose

On July 23, 2011, a private party is holding a land based wedding that will include fireworks launched from a point on Lake St. Clair. The fireworks display will occur between 9:30 p.m. and 10 p.m., July 23, 2011. The Captain of the Port Detroit has determined that waterborne fireworks pose serious risks to the boating public. Such hazards include obstructions to the waterway that may cause marine casualties, explosive danger of fireworks, debris falling into the water that may cause death, serious bodily harm or property damage.

##### Discussion of Rule

Because of the aforementioned hazards, the Captain of the Port Detroit has determined that a temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading, and launching of the Kathleen Whelan Wedding Fireworks Display.

The safety zone will encompass all waters on Lake St. Clair within a 600

foot radius of the fireworks barge launch site located off the shore of Grosse Pointe Farms, MI at position 42°23'5" N, 082°53'37" W from 9:30 p.m. until 10 p.m. on July 23, 2011. All geographic coordinates are North American Datum of 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

##### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and 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 it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone around the launch platform will be relatively small and exist for only a minimal time. Thus, restrictions on vessel movement within any particular area of Lake St. Clair are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered 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