

§ 31.3132–1T [Removed]

■ **Par. 7.** Section 31.3132–1T is removed.

■ **Par. 8.** Section 31.3134–1 is added to read as follows:

§ 31.3134–1 Recapture of credits.

(a) *Recapture of erroneously refunded credits.* Any amount of credits for qualified wages under section 3134 of the Code that is treated as an overpayment and refunded or credited to an employer under section 6402(a) or 6413(b) of the Code and to which the employer is not entitled, resulting in an erroneous refund to the employer, shall be treated as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, and may be assessed and collected by the Secretary in the same manner as the taxes.

(b) *Advance credit amounts erroneously refunded.* The determination of any amount of credits erroneously refunded as described in paragraph (a) of this section must take into account any amount of credits advanced to an employer under the process established by the Internal Revenue Service in accordance with section 3134(j) and 3134(m).

(c) *Third party payors.* For purposes of this section, employers against whom an erroneous refund of the credits under section 3134 can be assessed as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, include persons treated as the employer under sections 3401(d), 3504, and 3511, consistent with their liability for the section 3111(b) or 3221(a) taxes against which the credit applied, and also include those persons' common law employer clients that remain subject to all provisions of law applicable to employers with respect to the payment of wages or compensation, as applicable.

(d) *Applicability date.* This section applies to all credit refunds under section 3134 advanced or paid on or after September 8, 2021.

§ 31.3134–1T [Removed]

■ **Par. 9.** Section 31.3134–1T is removed.

■ **Par. 10.** Section 31.3221–5 is added to read as follows:

§ 31.3221–5 Recapture of credits under the Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security Act.

(a) *Recapture of erroneously refunded credits under the Families First Coronavirus Response Act.* Any amount of credits for qualified sick leave wages or qualified family leave wages under sections 7001 and 7003, respectively, of the Families First Coronavirus Response Act (Families First Act), Public Law 116–127, 134 Stat. 178 (2020), as modified by section 3606 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116–136, 134 Stat. 281 (2020), plus any amount of credits for qualified health plan expenses under sections 7001 and 7003, that are treated as overpayments and refunded or credited to an employer under section 6402(a) or 6413(b) of the Internal Revenue Code (Code) and to which the employer is not entitled, resulting in an erroneous refund to the employer, shall be treated as an underpayment of the taxes imposed by section 3221(a) of the Code and may be assessed and collected by the Secretary in the same manner as the taxes.

(b) *Recapture of erroneously refunded credits under the Coronavirus Aid, Relief, and Economic Security Act.* Any amount of credits for qualified wages under section 2301 of the CARES Act that is treated as an overpayment and refunded or credited to an employer under section 6402(a) or 6413(b) of the Code and to which the employer is not entitled, resulting in an erroneous refund to the employer, shall be treated as an underpayment of the taxes imposed by section 3221(a) of the Code and may be assessed and collected by the Secretary in the same manner as the taxes.

(c) *Advance credit amounts erroneously refunded.* The determination of any amount of credits erroneously refunded as described in paragraphs (a) and (b) of this section must take into account any amount of credits advanced to an employer under the process established by the Internal Revenue Service in accordance with sections 7001(b)(4)(A)(ii) and 7003(b)(3)(B) of the Families First Act, as modified by section 3606 of the CARES Act, and section 2301(l)(1) of the CARES Act.

(d) *Third party payors.* For purposes of this section, employers against whom an erroneous refund of the credits under sections 7001 and 7003 of the Families First Act, as modified by section 3606 of the CARES Act, and the credits under section 2301 of the CARES Act can be assessed as an underpayment of the taxes imposed by section 3221(a)

include persons treated as the employer under sections 3401(d), 3504, and 3511 of the Code, consistent with their liability for the section 3221(a) taxes against which the credit applied, and also include those persons' common law employer clients that remain subject to all provisions of law applicable to employers with respect to the payment of compensation.

(e) *Applicability date.* This section applies to all credit refunds under sections 7001 and 7003 of the Families First Act, as modified by section 3606 of the CARES Act, advanced or paid on or after July 24, 2020, and all credit refunds under section 2301 of the CARES Act advanced or paid on or after July 24, 2020.

§ 31.3221–5T [Removed]

■ **Par. 11.** Section 31.3221–5T is removed.

Douglas W. O'Donnell,
Deputy Commissioner for Services and Enforcement.

Approved: July 10, 2023.

Lily L. Batchelder,
Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2023–15690 Filed 7–24–23; 11:15 am]
BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2023–0308]

RIN 625-AA08

Special Local Regulation; Henderson Bay, Henderson Harbor, NY

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule

SUMMARY: The Coast Guard is establishing a permanent special local regulation for certain waters of Henderson Bay in Henderson Harbor, NY, in support of the Christmas in July festival. This action is necessary to provide for the safety of life on these navigable waters near Henderson Bay, Henderson Harbor, NY, during a boat parade. This rulemaking will prohibit persons and vessels from entering, transiting through, anchoring, blocking, or loitering within the event area adjacent to the city of Henderson Harbor, unless authorized by the Captain of the Port Buffalo or a designated representative.

DATES: This rule is effective July 26, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0308 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email MST2 Andrew Nevenner, Waterways Management Division MSD Massena, U.S. Coast Guard; telephone 315-769-5483, email SMB-MSDMassena-WaterwaysManagement@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 Information and Regulatory History

On March 16, 2023, the Henderson Business and Community Council notified the Coast Guard of an intention to conduct the “Christmas in July” boat parade in Henderson Bay on July 29, 2023. Christmas in July is an annual event in July occurring on or near the last weekend of July. The special local regulation area will occur from 5 p.m. through 9 p.m. and cover all waters within a moving zone that encompasses a 50-yard buffer zone ahead of the lead vessel, 50 yards astern of the last participating vessel, and 50 yards on each side of the parade vessels as it travels the parade route. The parade will start at Waterside Tavern dock at point 43°51'44" N 76°12'07.3" W and running north adjacent to the shore to point 43°52'12.2" N 76°11'32.7" W, continuing northwest to point 43°53'40.9" N 76°12'40.6" W and running south adjacent to the shore to point 43°51'47.2" N 76°14'08.3" W, ending at the starting position at point 43°51'44" N 76°12'07.3" W. In response, on June 7, 2023, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulation; Henderson Bay, Henderson Harbor, NY” (88 FR 37194). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this boat parade. During the comment period that ended July 7, 2023, we received one comment that was in full support of the rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port Sector Buffalo (COTP) has determined that this rule is necessary to ensure the safety of life and property of the participants within the regulated area before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we only received one comment on our NPRM published June 7, 2023, and it fully supported the proposed rule. There are no substantive changes in the regulatory text of this rule from the proposed rule in the NPRM. We did reform the text and corrected the authority citation for 33 CFR part 100.

This rule establishes a special local regulation from 5 p.m. through 9 p.m. on July 29, 2023. The special local regulation area will cover all waters within a moving zone that encompasses a 50-yard buffer zone ahead of the lead vessel, 50 yards astern of the last participating vessel, and 50 yards on each side of the parade vessels as it travels the parade route in Henderson Bay, Henderson Harbor, NY. The duration of the special local regulation is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 5 p.m. through 9 p.m. boat parade. No vessel or person will be permitted to enter the special local regulation area without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule 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, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local

regulation. Vessel traffic will be able to safely transit around this regulated area which would impact a small-designated area of Henderson Bay. Moreover, the Coast Guard would issue a Local Notice to Mariners about the areas, and the rule would allow vessels to seek permission to enter the areas.

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 received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (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 call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132. Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In

particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation lasting that will prohibit persons and vessels from transiting the regulated area during the parade. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record supporting this determination is available in the docket. For instructions on locating the

docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. In § 100.901, revise table 1 to read as follows:

§ 100.901 Great Lakes annual marine events.

* * * * *

TABLE 1 TO § 100.91

Event	Location	Date
Sector Buffalo, NY		
(1) Fireworks by Grucci	Lake Ontario, Wright's Landing/Oswego Harbor, NY within an 800 foot radius of the fireworks launching platform located in approximate position 43°28'10" N 076°31'04" W.	Last weekend of July.
(2) Flagship International Kilo Speed Challenge. Sponsor: Presque Isle Powerboat Racing Association.	That portion of Lake Erie, Presque Isle Bay, south of a line drawn from 42°08'54" N 080°05'42" W; to 42°07' N 080°21' W will be a regulated area. That portion of Lake Erie, Presque Isle bay, north of a line drawn from 42°08'54" N 080°05'42" W; to 42°07' N 080°21' W will be a "caution area". All vessels transiting the caution area will be operated at bare steerageway, keeping the vessel's wake at a minimum, and will exercise a high degree of caution in the area. The bay entrance will not be effected.	3rd or 4th weekend of June.
(3) Flagship International Offshore Challenge. Sponsor: Presque Isle Powerboat Racing Association.	That portion of Lake Erie, Presque Isle Bay, Entrance Channel, and the enclosed area from Erie Harbor Pier Head Light (LLNR 3430) northeast to 42°12'48" N 079°57'24" W, thence south to shore just east of Shades Beach.	3rd or 4th weekend of June.
(4) Friendship Festival Airshow	That portion of the Niagara River and Buffalo Harbor from:	4th of July holiday.
	Latitude	Longitude
	42°54.4' N	078°54.1' W, thence to.
	42°54.4' N	078°54.4' W, thence

TABLE 1 TO § 100.91—CONTINUED

Event	Location		Date
	Latitude	Longitude	
along the International Border to:			
42°52.9' N	078°54.9' W, thence to		
42°52.5' N	078°54.3' W, thence to		
42°52.7' N	078°53.9' W, thence to		
42°52.8' N	078°53.8' W, thence to		
42°53.1' N	078°53.6' W, thence to		
42°53.2' N	078°53.6' W, thence to		
42°53.3' N	078°53.7' W, thence		
along the breakwall to:			
42°54.4' N	078°54.1' W		
(5) NFBRA Red Dog Kilo Time Trials. Sponsor: Niagara Frontier Boat Racing Association.	That portion of the Niagara River, Tonawanda Channel, between Tonawanda Channel Buoy 31 to approximately 1/2 mile southwest of Twomile Creek along a line drawn from 43°00'45" N 078°55'06" W to 43°00'28" N 078°54'56" W (Sipco Oil Company).		4th or 5th weekend of September.
(6) Sodus Bay 4th of July Fireworks. Sponsor: Sodus Bay Historical Society.	Lake Ontario, within a 500 foot radius around a barge anchored in approximate position 43°15.73' N 076°58.23' W, in Sodus Bay.		4th of July holiday.
(7) Tallship Erie	That portion of Lake Erie, Presque Isle Bay.		1st or 2nd weekend of July.
Entrance Channel and Presque Isle Bay from:			
Latitude		Longitude	
42°10' N	080°03' W, thence to		
42°08.1' N	080°07' W, thence to		
42°07.9' N	080°06.8' W, thence		
east along the shoreline and structures to:			
42°09.2' N	080°02.6' W, thence to		
42°10' N	080°03' W		
(8) Thomas Graves Memorial Fireworks Display. Sponsor: Port Bay Improvement Association.	That portion of Lake Ontario, Port Bay Harbor, NY within a 500 ft radius surrounding a barge anchored in approximate position 43°17'46" N 076°50'02" W.		1st or 2nd weekend of July.
(9) Thunder Island Offshore Challenge. Sponsor: Thunder on the Water Inc.	That portion of Lake Ontario, Oswego Harbor from the West Pier Head Light (LLNR 2080) north to:		3rd or 4th weekend of June.
Latitude		Longitude	
43°29'02" N	076°32'04" W, thence to		
43°26'18" N	076°39'30" W, thence to		
43°24'55" N	076°37'45" W, thence		
along the shoreline to the West Pier Head Light (LLNR 2080).			
(10) We Love Erie Days Fireworks Sponsor: We Love Erie Days Festival, Inc.	That portion of Lake Erie, Erie Harbor, within a 300 foot radius, surrounding the Erie Sand and Gravel Pier, located in position 42°08'16" N 080°05'40" W.		3rd weekend of August.

TABLE 1 TO § 100.91—CONTINUED

Event	Location		Date
(11) Christmas in July	Location: The special local regulation area will cover ALL WATERS WITHIN A MOVING ZONE THAT ENCOMPASSES A 50 yard BUFFER ZONE ahead of the lead vessel, 50 yards astern of the last participating vessel, and 50 yards on each side of the parade vessels as it travels the parade route starting at point 43°51'44" N 76°12'07.3" W and running north adjacent to the shore to point 43°52'12.2" N 76°11'32.7" W, continuing northwest to point 43°53'40.9" N 76°12'40.6" W and running south adjacent to the shore to point 43°51'47.2" N 76°14'08.3" W, ending at the starting position at point 43°51'44.0" N 76°12'07.3" W.		Date: Final weekend of July.
	Latitude	Longitude	
	43°51'44" N	076°12'07.3" W, thence to	
	43°52'12.2" N	076°11'32.7" W, thence to	
	43°53'40.9" N	076°14'08.3" W, thence	
	along the shoreline to end at the starting position.		

Sector Sault Ste. Marie, MI

(1) Bridgefest Regatta	Keweenaw Waterway, from the Houghton Hancock Lift Bridge to 1000 yards west of the bridge, near Houghton, MI.	2nd weekend of June.
(2) Duluth Fourth Fest Fireworks ...	That portion of the Duluth Harbor Basin Northern Section bounded on the south by a line drawn on a bearing of 087° true from the Cargill Pier through Duluth Basin Lighted Buoy #5 (LLNR 15905) to the opposite shore on the north by the Duluth Aerial Bridge. That portion of Duluth Harbor Basin Northern Section within 600 yards of position 46°46'47" N 092°06'10" W.	4th of July weekend.
(3) July 4th Fireworks	That portion of the St. Mary's River, Sault Ste. Marie, MI within a 1000 foot radius of Brady Park, located on the south shore of the river. These waters are enclosed by the Locks to the west and to the east from a line drawn from the pier light of the east center pier to the U.S. Coast Guard Base to the southeast.	4th of July weekend.

¹ All coordinates listed in this table 1 reference North American Datum of 1983 (NAD 1983).

² As noted in the introductory text of this section, the enforcement dates and times for each of the listed events in this table are subject to change. In the event of a change, or for enforcement periods listed that do not allow a specific date or dates to be determined, the Captain of the Port will provide notice to the public by publishing a Notice of Enforcement in the **Federal Register**, as well as, issuing a Broadcast Notice to Mariner.

Dated: July 19, 2023.

Sean M. Murray,

Commander, U.S. Coast Guard, Alternate Captain of the Port Buffalo.

[FR Doc. 2023-15797 Filed 7-25-23; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF EDUCATION**34 CFR Chapter III**

[Docket ID ED-2023-OSERS-0057]

**Final Priority and Requirements—
Technical Assistance on State Data Collection—National Technical Assistance Center To Improve State Capacity To Collect, Report, Analyze, and Use Accurate IDEA Data To Address Significant Disproportionality**

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority and requirements.

SUMMARY: The Department of Education (Department) announces a priority and

requirements for the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Data to Address Significant Disproportionality (Center) under the Technical Assistance on State Data Collection program, Assistance Listing Number 84.373E. The

Department may use this priority and one or more of these requirements in fiscal year (FY) 2023 and later years. We will use the priority to award a cooperative agreement for a Center to focus attention on an identified national need to provide technical assistance (TA) to improve the capacity of States to meet the data collection and reporting requirements under Part B and Part C of the Individuals with Disabilities Education Act (IDEA). This Center will support States in collecting, reporting, and determining how to best analyze and use their data to address issues of significant disproportionality and will customize its TA to meet each State's specific needs.

DATES: The priority and requirements are effective August 25, 2023.

FOR FURTHER INFORMATION CONTACT: Richelle Davis, U.S. Department of Education, 400 Maryland Avenue SW, Room 5076, Potomac Center Plaza, Washington, DC 20202-5076. Telephone: (202) 245-7401. Email: *Richelle.Davis@ed.gov*.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7-1-1.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Technical Assistance on State Data Collection program is to improve the capacity of States to meet IDEA data collection and reporting requirements. Funding for the program is authorized under section 611(c)(1) of IDEA, which gives the Secretary authority to reserve not more than 1/2 of 1 percent of the amounts appropriated under Part B for each fiscal year to provide TA activities, where needed, to improve the capacity of States to meet the data collection and