

result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

Pub. L. 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The rule does not require additional record keeping or other significant expense by project participants.

*Pub. L. 96-511, "Paperwork Reduction Act of 1995" (44 U.S.C. 3501 *et seq.*)*

It has been certified that this rule does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995.

Federalism (Executive Order 13132)

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132.

List of Subjects in 32 CFR Part 3

Government procurement,
Transactions for prototype projects.

Accordingly, 32 CFR part 3 is proposed to be amended to read as follows:

PART 3—TRANSACTIONS OTHER THAN CONTRACTS, GRANTS, OR COOPERATIVE AGREEMENTS FOR PROTOTYPE PROJECTS

1. The authority citation for 32 CFR part 3 continues to read as follows:

Authority: Section 845 of Public Law 103-160, 107 Stat. 1721, as amended.

2. Section 3.4 is amended to add new definitions in alphabetical order to read as follows:

Project Manager. The government manager for the prototype project.

Contracting Officer. A person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings as defined in chapter 1 of title 48, CFR, Federal Acquisition Regulation, part 2.101(b).

3. New § 3.9 is added to read as follows:

§ 3.9 Follow-on production contracts.

(a) *Authority.* A competitively awarded OT agreement for a prototype project that satisfies the condition set forth in law that requires non-Federal parties to the OT agreement to provide at least one-third of the costs of the prototype project may provide for the award of a follow-on production contract to the awardee of the OT

prototype agreement for a specific number of units at specific target prices, without further competition.

(b) *Conditions.* The Agreements Officer must do the following in the award of the prototype project:

(1) Ensure non-Federal parties to the OT prototype agreement offer at least one third of the costs of the prototype project pursuant to subsection (d)(1)(B)(i), 10 U.S.C. 2371 note.

(2) Use competition to select parties for participation in the OT prototype agreement and evaluate the proposed quantity and target prices for the follow-on production units as part of that competition.

(3) Determine the production quantity that may be procured without further competition, by balancing of the level of the investment made in the project by the non-Federal parties with the interest of the Federal Government in having competition among sources in the acquisition of the product or products prototyped under the project.

(4) Specify the production quantity and target prices in the OT prototype agreement and stipulate in the agreement that the Contracting Officer for the follow-on contract may award a production contract without further competition if the awardee successfully completes the prototype project and agrees to production quantities and prices that do not exceed those specified in the OT prototype agreement (see part 206.001 of the Defense Federal Acquisition Regulation Supplement).

(c) *Limitation.* As a matter of policy, establishing target prices for production units should only be considered when the risk of the prototype project permits realistic production pricing without placing undue risks on the awardee.

(d) *Documentation.* (1) The Agreements Officer will need to provide information to the Contracting Officer from the agreement and award file that the conditions set forth in paragraph (b) of this section have been satisfied.

(2) The information shall contain, at a minimum:

(i) The competitive procedures used;
(ii) How the production quantities and target prices were evaluated in the competition;

(iii) The percentage of cost-share; and

(iv) The production quantities and target prices set forth in the OT agreement.

(3) The Project Manager will provide evidence of successful completion of the prototype project to the Contracting Officer.

Dated: May 12, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 117

[CGD09-03-208]

RIN 1625-AA08

RIN 1625-AA09

Toledo Tall Ships Parade 2003, Port of Toledo, OH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary regulations, including an exclusionary area and spectator anchorage areas, 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: Comments and related material must reach the Coast Guard on or before June 15, 2003.

ADDRESSES: You may mail or hand-deliver comments and related material to Marine Safety Office (MSO) Toledo, 420 Madison Ave, Suite 700, Toledo, Ohio 43604. MSO Toledo maintains the public docket for this rulemaking. Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying 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:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for

this rulemaking (CGD09-03-208), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Comments and attachments should be submitted on 8 1/2" x 11" unbound paper in a format suitable for copying. Persons requesting acknowledgement of receipt of comments should include a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to MSO Toledo at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The proposed temporary special local regulations are for the Toledo 2003 Tall Ships Parade of Sail that will be held in the Maumee River. The parade is currently scheduled to occur from 2 p.m. until 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 proposed regulations would create temporary anchorage regulations and vessel movement controls through the regulated area. The proposed regulations would be in effect from 9 a.m. until 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 poses a significant threat to the safety of life. This proposed rulemaking is necessary to ensure the

safety of life on the navigable waters of the United States.

The Coast Guard proposes to establish a regulated area in the Maumee River that will be in effect during the Toledo Parade of Sail 2003 event. This proposed regulated area is 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 would 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. until 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 proposes to establish 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 mile 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 to navigation 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.

Regulatory Evaluation

This proposed rule is not "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 proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

While this proposed regulation 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 proposed 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 proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

This proposed 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 portions of Maumee River during various times on July 16, 2003. These regulations would 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 would 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 (Pub. L. 104-121), the Coast Guard aims to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Herb Oertli, MSO Toledo, at (419) 418-6040.

Collection of Information

This proposed rule would call 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 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.

Energy Effects

We have analyzed this proposed 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 proposed 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.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 and 117 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.

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) *Regulated Area.* All waters of the Maumee River between a line drawn between north-east corner of Grassy Island at 41°24'24" 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.

(2) *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).

Note to paragraph (a)(2): 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 seabed 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) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, Group Detroit.

(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 (b)(iv) of his section, is restricted for use the of those vessels officially participating in Parade of Sail Toledo 2000 activities. No other vessels will be permitted in Spectator Area D without permission of the Captain of the Port.

(7) Vessels, except emergency, law enforcement, and those authorized by the Captain of the Port, may not transit through the regulated area.

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

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

(10) Vessels which 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.

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

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

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

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

(c) *Effective period.* This section is effective 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.

4. From 12 p.m. until 3:30 p.m., Wednesday, July 16, 2003, suspend § 117.855, and add temporary § 117.T856 to read as follows:

§ 117.T856 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 remain open to navigation from 12 p.m. until 1:30 p.m. and 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.

Dated: May 6, 2003.

Ronald F. Silva,

Rear Admiral, U.S. 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–AA00

RIN 1625–AA01

Tall Ships 2003, Navy Pier, Lake Michigan, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary regulated navigation area (RNA), a moving safety zone and temporarily suspend 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: Comments and related material must reach the Coast Guard on or before June 10, 2003.

ADDRESSES: You may mail or hand-deliver comments and related material to Commanding Officer, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street Suite D, Burr Ridge, IL 60527. Marine Safety Office (MSO) Chicago maintains the public docket for this rulemaking. Comments and material received from the public, as well as the documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at MSO Chicago 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:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09–03–207), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Comments and attachments