

Note: November 2022.

This Directive may no longer be current. Please check with the program office responsible for this Directive to determine if there are any updates or if the Directive is no longer in use.

U.S. Department of
Homeland Security

United States
Coast Guard



Permitting of Regattas & Marine Parades



COMDTINST M16751.3

March 2013



COMDTINST M16751.3
20 MAR 2013

COMMANDANT INSTRUCTION MANUAL 16751.3

Subj: PERMITTING OF REGATTAS AND MARINE PARADES

- Ref:
- (a) Title 33 United States Code, Section 1233
 - (b) 33 CFR Part 100, Safety of Life on Navigable Waters
 - (c) Federal/State Relations – Recreational Boating Safety, COMDTINST M16750.8 (series)
 - (d) National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1(series)
 - (e) 33 CFR Part 6, Protection and Security of Vessels, Harbors, and Waterfront Facilities
 - (f) 33 CFR Part 126, Handling of Dangerous Cargo at Waterfront Facilities
 - (g) 33 CFR Part 160, Ports and Waterways Safety
 - (h) 33 CFR Part 165, Regulated Navigation Areas and Limited Access Areas
 - (i) 49 CFR Parts 171 – 180, Hazardous Materials Transportation
 - (j) Preparation of Field Regulations Manual, COMDTINST M16704.3 (series)
 - (k) Navigation and Vessel Inspection Circular (NVIC) No. 7-02, Marine Safety at Fireworks Displays
 - (l) Natural Resources Management, COMDTINST M5090.3 (series)
 - (m) Coastal Zone Management, Federal Consistency Procedures, COMDTINST 16004.2 (series)
 - (n) Navigation and Vessel Inspection Circular (NVIC) No. 2-00, Inspection Guidance for Vessels Participating in Marine Events of National Significance.
 - (o) Security of Marine Events of National Significance, Policy Advisory Council Decision 14-04 (series)

1. PURPOSE. This Manual provides direction and sets policy for use by District and Sector Commanders in delegating and exercising effective control over regattas and marine parades (marine events) as required under References (a) and (b).

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NON-STANDARD DISTRIBUTION:

2. **ACTION.** All Coast Guard unit commanders, commanding officers, officers-in-charge, deputy/assistant commandants, and chiefs of headquarters staff elements shall comply with the provisions of this Manual. This includes encouraging States to accept responsibility for management of regattas and marine parades through Coast Guard-State cooperative agreements as outlined in Reference (c). Coast Guard unit commanders, commanding officers, and officers-in-charge shall also develop policies for delegation of authority consistent with this Manual. Internet release is authorized.
3. **DIRECTIVES AFFECTED.** Regattas and Marine Parades, COMDTINST 16751.3A is cancelled.
4. **DISCUSSION.** The regulation of regattas and marine parades (marine events) is a complicated issue that requires a detailed understanding of Coast Guard authorities and a host of interconnected laws, regulations, and Executive Orders. This Manual provides significant clarification to longstanding Coast Guard permitting policy. This Manual reinforces the limits of Coast Guard permitting authority and ensures that permits are issued for only the specific portions of larger events over which the Coast Guard has authority.
5. **MAJOR CHANGES.** While not a new policy, this Manual implements the recommendations from the July 2011 Strategic Needs Assessment of the Coast Guard's Marine Event Permitting Program conducted by the Performance Analysis Team at Training Center Petaluma. Major changes to this process include: introduction of a six-stage permitting process, and clarification on preparing special local regulations. In addition, this Manual provides clarification on the limits of Coast Guard permitting authority consistent with References (a) and (b).
6. **PROCEDURES.** No paper distribution will be made of this Instruction. Distribution will be available at: Intranet: <http://cgweb.comdt.uscg.mil/CGDirectives/Welcome.htm>, Internet: <http://www.uscg.mil/directives/>, and CG Portal: <https://cgportal2.uscg.mil/library/directives/SitePages/Home.aspx>
7. **REQUESTS FOR CHANGES.** Units and individuals may recommend changes by writing via the submitter's chain of command to: Office of Waterways and Ocean Policy, Commandant (CG-WWM); U. S. Coast Guard; 2100 2ND ST SW STOP 7580; WASHINGTON, DC 20593-7580.
8. **DISCLAIMER.** This direction and policy is not a substitute for applicable legal requirements, nor is it itself a rule. It is intended to provide operational guidance for Coast Guard personnel and is not intended to nor does it impose legally-binding requirements on any party outside the Coast Guard.
9. **RECORDS MANAGEMENT CONSIDERATIONS.** This Manual has been evaluated for potential records management impacts. The development of this Manual has been thoroughly reviewed during the directives clearance process, and it has been determined there are no further records scheduling requirements, in accordance with Federal Records Act, 44 U.S.C. 3101 et seq., National Archives and Records Administration (NARA) requirements, and the Information and Life Cycle Management Manual, COMDTINST M5212.12 (series). This policy does not have any significant or substantial change to existing records management requirements.

10. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS.

- a. The development of this Manual and the general policies contained within it has been thoroughly reviewed by the originating office in conjunction with the Office of Environmental Management and the Office of Environmental Law.
- b. Where NEPA is applicable to the provisions of this directive, these provisions are categorically excluded under current USCG Categorical Exclusion (CE) # 33 from further environmental analysis, in accordance with Section 2.B.2. and Figure 2-1 of Reference (d). Because this Manual contains guidance on, and provisions for, compliance with applicable environmental mandates, Coast Guard categorical exclusion #33 is appropriate.
- c. Where NEPA is applicable to the provisions contained in this directive, no provisions of this Manual itself will have any of the following: significant cumulative impacts on the human environment; substantial controversy or substantial change to existing environmental conditions; or inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment.
- d. In addition to the provisions of this directive which are categorically excluded, this Manual also contains a clarification from previous directives regarding the handling of “Triggering Events.” This clarification was thoroughly evaluated under the provisions of existing law and is deemed a non-discretionary act and therefore not subject to the National Environmental Policy Act (NEPA).
- e. All future specific actions resulting from the general policies in this Manual must be individually evaluated for compliance with NEPA, DHS and Coast Guard NEPA policy, and compliance with all other environmental mandates. Due to the administrative and procedural nature of this Manual, and the environmental guidance provided within it for compliance with all applicable environmental laws prior to promulgating any directive, all applicable environmental considerations are addressed appropriately in this Manual.

11. FORMS/REPORTS. The forms Referenced in this Manual are available in Coast Guard Electronic Forms on the Standard Workstation or on the internet: <http://www.uscg.mil/forms/>; CG Portal <https://cgportal2.uscg.mil/library/forms/SitePages/Home.aspx> and intranet at <http://cgweb.comdt.uscg.mil/CGForms>.

D. A. GOWARD /s/
Director of Marine Transportation Systems

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ENCLOSURES:

- (1) Sample Delegation of Authority Letter
- (2) Sample Designation as Marine Event Reviewer Letter
- (3) Sample Letter Forwarding to State Boating Law Administrator
- (4) Sample Letter of “No Action on Permit Application” to Event Sponsor
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- (6) Sample Disapproval Letter
- (7) Sample Letter of Forwarding to Appropriate Authorities for Environmental Review
- (8) Sample Patrol Commander Designation Letter
- (9) Sample Patrol Commander Pre-Event Checklist
- (10) Sample Patrol Commander After Action Report

FIGURES:

- (1) Figure: 1-1 Six Stage Permit Review Process
- (2) Figure: 2-1 Outreach and Application Stage
- (3) Figure: 3-1 Administrative Review Stage
- (4) Figure: 4-1 Safety Review Stage
- (5) Figure: 5-1 Environmental Review Stage
- (6) Figure: 6-1 Permit Issuance Stage

CHAPTER 1. REGULATIONS AND POLICIES

A. Programmatic Overview.

1. Background. Reference (a), originally enacted on April 28, 1908, authorizes the Coast Guard to regulate regattas and marine parades, hereafter referred to as “marine events.” The Secretary, as delegated to the Commandant, has issued regulations on this subject in Reference (b). Coast Guard responsibilities and authorities are broad, and include the authority to control events on, in and under the water. These authorities, however, are not unlimited.
2. Use of Appropriate Authorities. Congress has granted the Secretary, who has further delegated to the Commandant, District Commanders, and Captains of the Port, a broad suite of separate, but related, authorities to oversee the safety, security, and environmental protection of the nation’s ports and waterways. The ability to issue a Permit for Marine Event, Form CG-4424, and to promulgate associated Special Local Regulations are only two tools in a larger toolkit available to the Coast Guard. When evaluating the appropriate authority to adequately oversee the safety, security, and environmental protection of ports and waterways during marine events, Coast Guard personnel must consider the following areas of emphasis:
 - a. Not all events require Coast Guard issued permits. In many instances other Coast Guard authorities are more appropriate. Paragraph 1.C. of this Manual outlines the requirements to be met in order for the Coast Guard to require an event sponsor to obtain a Permit for Marine Event, Form CG-4424. Paragraph 1.I. of this Manual further discusses the relationship between authorities.
 - b. Only issue a Permit for Marine Event, Form CG-4424, for portions of events over which the Coast Guard has both the authority and need to issue a permit. In many cases a large overarching “triggering event” may only require a Coast Guard-issued permit for an associated gathering of spectator craft or other on-water portion of the larger event. The Coast Guard may lack the authority and/or need to issue a permit for the overarching “triggering event” itself. Paragraph 1.B.15. of this Manual further defines “triggering events.”
 - c. Be mindful of applicable environmental laws and policies. The manner and type of environmental analysis required will vary based upon the federal action being undertaken, the authority being exercised, and any associated Categorical Exclusions. Coast Guard personnel must exercise good faith efforts to comply with both the letter and spirit of environmental laws and policies whenever taking federal actions. Chapter 5 of this Manual provides details on environmental requirements.

3. Six-Stage Permitting Process. Units should use a six-stage process to work through permitting decision-making. Stages can be conducted concurrently in some instances, but following this permitting process will confirm whether a permit is required or must be denied well before expending finite resources or completing the entire review process of an application. The six-stage process is designed to prevent reviewers from performing a complete review of an application if a permit ultimately will not be issued. Figure 1-1 provides a broad overview of the permitting process. The six stages are as follows:
 - a. Outreach and Application Stage (see Chapter 2 of this Manual),
 - b. Administrative Review Stage (see Chapter 3 of this Manual),
 - c. Safety Review Stage (see Chapter 4 of this Manual),
 - d. Environmental Review Stage (see Chapter 5 of this Manual),
 - e. Permit Issuance Stage (see Chapter 6 of this Manual), and
 - f. Monitoring Stage (see Chapter 7 of this Manual).

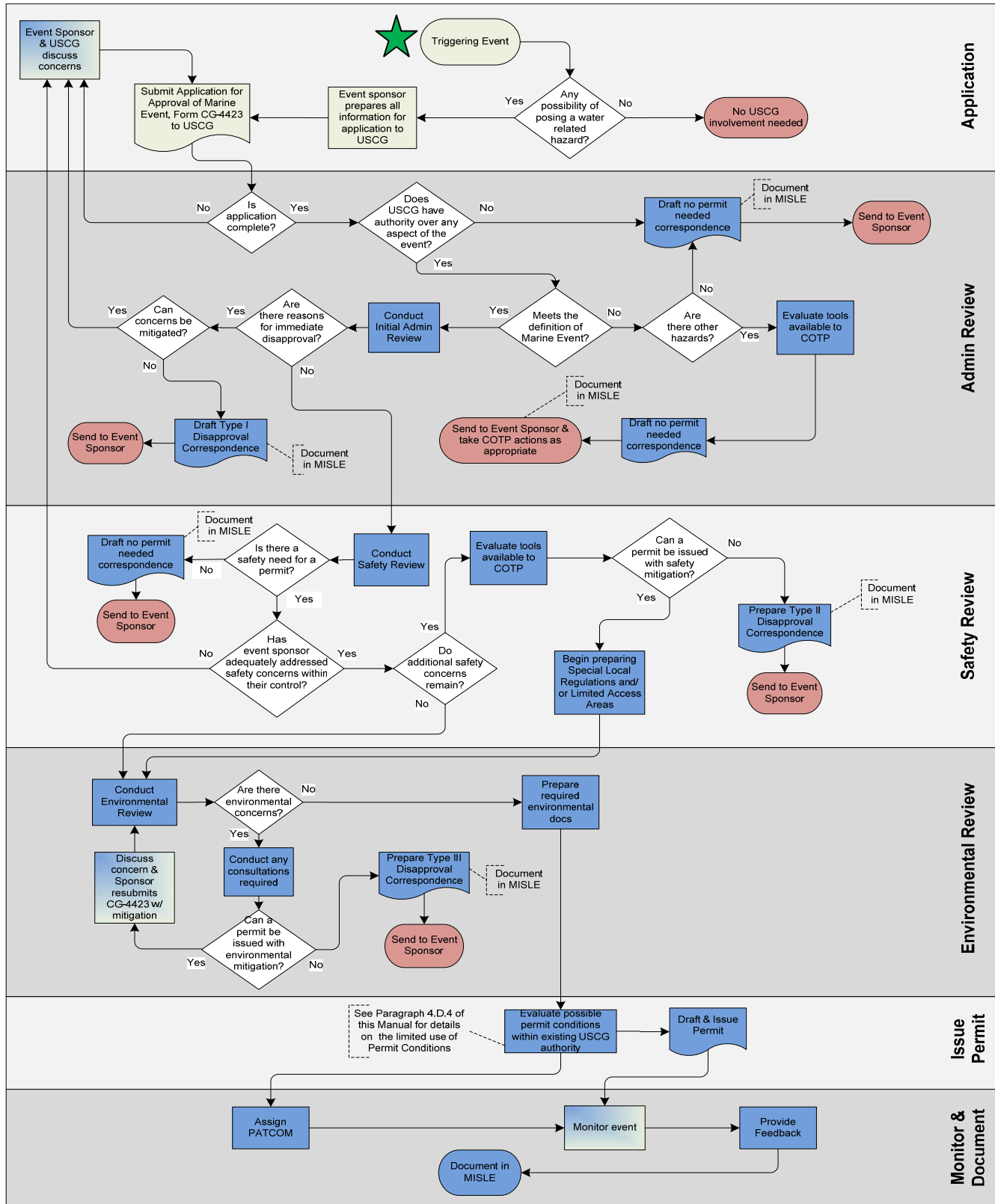


Figure: 1-1 Six Stage Permit Review Process: This is a general overview of the review process. Each stage is portrayed in greater detail within this Manual. Flowchart starts with green shaded star.

B. Definitions.

1. Correspondence. For the purposes of this Manual the term “correspondence” refers to any form of formal communication between parties. This may be via paper, electronic, or verbal means. Nothing in this Manual is intended to restrict a unit’s ability to utilize electronic means of communications. However, all Coast Guard communications with event sponsors regarding decisions on permitting action should be made in some written form. This written form could include electronic mail with the pertinent permit or letter included as an attachment or other equivalent methods.
2. Designated Officer. A Coast Guard employee who in the opinion of a District Commander, or a Commanding Officer who has been delegated marine event permitting responsibilities, has demonstrated the requisite knowledge, skills, ability, and familiarity with this Manual to approve marine events and take other action, as appropriate. Such a person must be designated in writing with the authority to carry out the functions granted to the Designated Officer, as described in this Manual.
3. District Commander. See definition in 33 CFR § 1.01-1.
4. Event Sponsor. An individual, organization, or government entity (i.e., a town) planning an event that has *any possibility* of impacting the navigable waters of the United States. For the purposes of this Manual, Coast Guard personnel should consider any organization or individual who is planning, organizing, actively promoting, advertising, providing facilities for, or financially supporting (beyond simply providing prize money) a marine event as a potential event sponsor until such time as a single organization or individual can be formally identified as the lead sponsor via submission of an Application for Approval of Marine Event, Form CG-4423.
5. Extra or unusual hazard. A condition resulting directly from the marine event that: (1) constitutes more than an ordinary hazard; and (2) seriously jeopardizes the safety of human life on the navigable waters of the United States. All activities (including marine events) on, in, and under the navigable waters of the United States inherently have some ordinary hazard associated with them. Therefore, the Coast Guard should not issue a Permit for Marine Event, Form CG-4424, for activities that merely constitute ordinary hazards. Rather, the Coast Guard should only issue permits for marine events that seriously jeopardize the safety of human life on the navigable waters of the United States.

EXAMPLE: Conditions which could introduce extra or unusual hazards to the safety of human life on navigable waters of the United States include, but are not limited to: (1) an inherently hazardous competition; (2) the expected high or mass concentration of commercial or pleasure craft in the area; (3) any hazard to navigation as defined by 33 CFR § 64.06 which may reasonably be expected to occur; and (4) the expected accumulation of spectator craft. In all cases, the condition must be compared to the ordinary hazards associated with operations and activities on the water in the area.

6. Marine Event or Event. An organized water event of limited duration conducted according to a prearranged schedule, and which presents an extra or unusual hazard to the safety of life that

cannot be protected against by the existing Navigation Rules. This may include any concentration of traffic on water, whether participant or spectator, craft or not, and competitive or non-competitive in nature. Only events that meet all of the following are considered marine events:

- a. Is an organized water activity of limited duration conducted according to a prearranged schedule on the navigable waters of the United States;
- b. Is likely to cause a high concentration of craft or otherwise interfere with normal navigation;
- c. Is likely to introduce extra or unusual hazards to the safety of human life; and,
- d. Cannot be protected against by the existing navigation rules.

NOTE: Do not confuse “marine event” with “triggering event.” The marine event is the concentration of traffic on the water that meets the criteria above. The triggering event may be the *reason* for the concentration of traffic, but may or may not be a marine event itself.

7. Navigable Waters of the United States. See definition in 33 CFR § 2.36(a).
8. Ordinary Hazard. A risk or source of inherent danger normally associated with conducting the activity. All activities conducted on or near the water carry certain innate risks. These innate risks, or associated hazards, will be taken into account when deciding if an event warrants the issuance of a Permit for Marine Event, Form CG-4424. Permits will be issued when they are likely to introduce an extra or unusual hazard.
9. Marine Event Participant. A person participating in the marine event, not including spectator vessels.
10. Regatta or Marine Parade. Same as a Marine Event.
11. Safety of Life. The Coast Guard interprets the phrase “the safety of life” to be limited to the safety of human life. When determining whether a marine event warrants issuance of a permit, the Coast Guard does not consider whether the marine event will introduce extra or unusual hazards to the safety of animal or plant life on, in, and under the navigable waters of the United States.

NOTE: As with any Coast Guard action, an environmental analysis must be conducted to consider the impact of the Coast Guard’s issuance of the Permit for Marine Event, Form CG-4424, on the quality of the human environment. During this environmental analysis, the Coast Guard must consider the environmental impact on the natural and physical environment and the relationship of people with that environment, including the impact of the marine event on any threatened or endangered species under the Endangered Species Act and environmentally sensitive areas. This analysis is conducted *after* the determination is made that a marine event requires a Coast Guard permit and is addressed in Chapter 5 of this Manual.

12. Special Local Regulations. Regulations that are promulgated specifically in conjunction with a marine event to promote safety of life on the navigable waters immediately before, during, and immediately after a marine event.
 13. Spectator Vessel. A vessel in the vicinity of a marine event with the primary purpose of witnessing the marine event. Vessels transiting the Marine Event area while conducting other business are not considered spectator vessels unless they linger on-scene for the purpose of observing the marine event.
 14. State or Local Authority. An official or agency of local or State government having power under the laws of a State to regulate marine events on waters over which the State has jurisdiction.
 15. Triggering Event. An organized event of limited duration that may result in a marine event. Triggering events can include fireworks displays, music concerts, air shows, sporting events held ashore, etc. The Coast Guard typically does *not* issue a permit for triggering event unless the triggering event, itself, meets all the criteria for consideration as a marine event. This could occur in instances such as boat races or regattas, parades of ships, swim events, etc. The Coast Guard instead issues permits for any resulting marine events (concentration of waterborne traffic) that pose an extra or unusual hazard to the safety of human life on the navigable waters of the United States.
- C. Coast Guard Authorities. The Coast Guard has broad discretion to approve or disapprove an Application for Marine Event, Form CG-4423, and therefore to allow or prevent a marine event from taking place. However, the Coast Guard may only exercise that authority for marine events. See the definition of marine event in Paragraph B.6. of this Chapter.
- D. Delegation of Authority.
1. District Commanders have the authority to issue Permits for Marine Events, Form CG-4424. The District Commander may delegate this authority to Commanding Officers (to include Sector Commanders and/or Captains of the Port) of subordinate units. Such a delegation must be in writing. Commanding Officers delegated the authority to oversee the marine event may further designate, in writing, subordinate personnel who, in the opinion of the Commanding Officer, have demonstrated the requisite knowledge, skills, ability, and familiarity with this Manual to approve marine events and take other action, as appropriate (see Designated Officer).
 2. The authority to disapprove an application may not be delegated below the unit Commanding Officer (to include Sector Commanders and/or Captains of the Port).
 3. The District Commander shall retain final decision authority on requests for reconsideration of marine event permit related decisions made by subordinate unit Commanding Officers.
 4. The authority to take action on an Application for a Marine Event, Form CG-4423, is separate from the authority to promulgate regulations associated with a triggering event or marine event. That authority is contained in 33 C.F.R. § 1.05-1 and may be separately delegated as appropriate under existing Commandant Policy.

5. Enclosures (1) and (2) provide sample marine event delegation and designation letters.

- E. State Coordination. District Commanders are authorized and encouraged to enter into agreements with State authorities under 33 CFR § 100.10, which allows States to regulate certain marine events on the navigable waters of the U.S. when within their capabilities. Pursuant to 33 CFR § 100.10, such agreements should reserve the right to regulate any particular regatta or marine parade when the Coast Guard deems such action to be in the “public interest” to the District Commander. Close coordination with local boating authorities is highly encouraged to ensure adequate control and safety of everyone in and around all marine events. This coordination may be outlined in a new or existing memorandum of understanding for recreational boating safety with a State. Enclosure (3) is a sample letter forwarding an application for marine event to the appropriate State authority. Reference (c) provides a guide for preparation of Coast Guard – State Recreational Boating Safety Memoranda of Agreement.
- F. Events Requiring Permits. District Commanders shall use a risk-informed approach to define what constitutes an “extra or unusual hazard to the safety of life,” and to determine which marine events require issuance of Permits for Marine Events, Form CG-4424, in their districts. Not every marine event requires a permit. The Coast Guard has discretion under References (a) and (b) to determine which events create “extra or unusual hazards to the safety of life upon the navigable waters of the U.S.,” but that discretion must be used in a standardized manner within each district and nationwide. District Commanders must, therefore, provide as detailed guidance as possible within the bounds of their discretion to subordinate units for processing Applications for Marine Events, Form CG-4423. Records of historic marine events held in the district's Area of Responsibility (AOR) and a review of marine casualty data may be useful in establishing such guidance. Examples of marine events requiring permits could include, but are not limited to:

EXAMPLE: Events involving more than 50 participating vessels or more than 50 swimmers. In many cases this would be an example of where a triggering event (boat race or swim race) was, itself, also a marine event;

EXAMPLE: Events that generate or expect more than 200 spectator vessels;

EXAMPLE: Events involving participating vessels traveling at speeds of greater than 30 knots;

EXAMPLE: Events that will cause participating vessels or spectator vessels to cross a designated shipping lane, or otherwise block or cause substantial interference with navigation on a body of water;

EXAMPLE: Events that, due to their unique nature, present such a substantial threat to the safety of human life that specific operational restrictions and safety protocols, within the bounds of the Coast Guard’s limited authority, must be delineated via a Permit for Marine Event, Form CG-4424; or

EXAMPLE: Controversial events, such as organized protest activities occurring in the maritime environment, which could intentionally or unintentionally cause substantial interference with navigation.

NOTE: The specific numbers used in the above examples (i.e., number of participating vessels, number of spectator vessels, and vessel speeds) are examples and may or may not be the appropriate number for a specific district's AOR. Nothing in the above examples is intended to restrict the District Commander's discretion in establishing risk-informed standards specific to their AOR.

G. Events Not Requiring Permits. It is the responsibility of the District Commander or Designated Officers to determine whether an activity poses an extra or unusual hazard to the safety of human life. If a Permit for Marine Event, Form CG-4424, issued under Reference (b) is not required for a marine event, but the event creates other safety concerns, other tools, such as those afforded by References (e) through (i), may be appropriate. The decision to use authorities granted to the Coast Guard by the Ports and Waterways Safety Act (33 U.S.C. § 1221, et seq.), the Magnusson Act (50 U.S.C. § 191, et seq.), and other related statutes does not automatically imply the activity is a marine event that poses an extra or unusual hazard to the safety of life.

H. Fireworks.

1. As a triggering event, fireworks may result in concentration of traffic on the water. That concentration of traffic may, in itself, be a marine event. The Coast Guard should not issue permits for the fireworks displays themselves as marine events. However, as a triggering event, fireworks may result in an associated concentration of traffic on the water (marine event). For that reason, fireworks event sponsors should submit an Application for Marine Event, Form CG-4423, for spectator zones or other anticipated impacts the fireworks display may have on navigation in a nearby waterway. Designated Officers must gauge the totality of the situation, including the location relative to shipping channels, the number of waterborne spectators expected, etc. to determine what portions of the activity, if any, must be addressed in a Coast Guard permit. Only in cases where the associated activities create an extra or unusual hazard to the safety of life on the water will the marine event require a permit, and, in no case, should the permit grant permission for, or place conditions on, the triggering event itself.
2. Establishment of a safety or security zone under Reference (h) to mitigate safety concerns from the triggering event (fireworks) does not automatically create a requirement for the associated marine event to be issued a permit. Safety or security zones created to enhance the safety of a marine event should not direct traffic. Refer to Chapter 1.J. of Reference (j) for guidance on the establishment of all limited access areas. If a permit is issued for marine events which occur in association with a fireworks display, Designated Officers should issue permits for only that portion of the event that constitutes the marine event, or, more specifically, that portion of the event that occurs on the water that interferes with navigation such that it introduces an extra or unusual hazard to the safety of life. Reference (k) provides guidance on additional marine safety measures to be considered in conjunction with fireworks displays. Reference (k), however, does not imply that fireworks displays require permits in order to take other marine safety measures.

I. Relationships Between Authorities.

1. Designated Officers should use care to distinguish between authorities outlined in Reference (b) for effective control over marine events and those contained in other authorities, such as safety zones (see Reference (h)) and other Ports and Waterways Safety authorities outlined in 33 CFR Subchapter P. While several authorities may be applied in combination, they are distinct tools

available to the District Commander or Captain of the Port. Designated Officers should avoid the misperception that a singular authority, such as Reference (a), without consideration of other available tools, can address all waterway concerns. Instead, the District Commander, Captain of the Port, and Designated Officers should consider all available authorities and tools and apply those necessary to safely manage the waterways.

2. An event, such as fireworks launched from a barge, may require a Permit for Marine Event, Form CG-4424, for the on-water impact to navigation from spectator craft, as well as a separate and distinct safety zone around the barge. Furthermore, the marine safety requirements of Reference (k) may apply. While the triggering event is the same in all cases (launching and handling of fireworks), only the portion of the event that impacts safe navigation and poses an extra or unusual hazard to human life should be considered in the permit issued under regulations in Reference (b).

NOTE: Although separate authorities are being utilized, the Coast Guard's obligations to provide public notice and an opportunity for public comment can typically be handled in one rulemaking. There is no requirement to publish two separate Federal Register Notices when a special local regulation and a safety zone are proposed for the same event (i.e., same day/time/activity). Nor does the publication of multiple types of limited access areas in one document imply that the Coast Guard will issue a permit for the triggering event itself.

EXAMPLE: An event sponsor is planning a fireworks display launched from a barge. The Coast Guard determines the circumstances necessitate a Permit for Marine Event, Form CG-4424, for the spectator zones, which will require vessels to transit the spectator areas at slow speed and limit the areas where they can anchor to view the event. The Coast Guard also determines that there should be a safety zone around the barge launching the fireworks. Both the special local regulations for the spectator areas (codified in Reference (b)) and the safety zone (codified in Reference (h)) can be published in the same Federal Register document. In this case, the Permit for Marine Event, Form CG-4424, would be issued only for the spectator areas. The Officer in Charge, Marine Inspection (OCMI), or Captain of the Port may also exercise other authorities over the handling of explosives and safety on the barge itself. These actions by the OCMI and/or COTP would be separate from the Permit for Marine Event, Form CG-4424.

- J. Protecting First Amendment Rights. Nothing in this manual is intended to infringe upon a person's, including an organization's, right to freedom of expression. Every effort should be made to accommodate lawful expressions of free speech, including protest activities, to the greatest extent possible while continuing to ensure the safety of the event.

CHAPTER 2. OUTREACH AND APPLICATION STAGE

- A. Principles of Outreach. District Commanders and Designated Officers should ensure, to the greatest extent practicable, that event sponsors are aware of the permit application requirements found in 33 CFR § 100.15, including the deadline for submitting an Application for Approval of Marine Event, Form CG-4423. Members of the public can obtain a copy of the form from their local unit or download a copy from the Homeport web portal. See Figure: 2-1 for an example of how the Outreach and Application Stage flows.
- B. Promotion of Program. Units processing Applications for Marine Events, Form CG-4423, should develop outreach mechanisms to disseminate information that stresses the importance of the marine event permitting process, and explain submission timelines and processing procedures. This outreach mechanism could include promotion through various different avenues, such as the Coast Guard Auxiliary, Harbor Safety Committees, industry days, and during vessel inspections, America's Waterways Watch events, Sea Partners Campaigns, Homeport postings, flyer mailings, etc.
- C. Contact with Repeat Event Sponsors. Units processing Applications for Approval of Marine Events, Form CG-4423, should develop mechanisms to engage with repeat event sponsors in order to remind the sponsor of permit timelines and provide any updates on the manner in which their permits will be processed.
- D. Contact with Public Interest Groups. It is a good practice to involve groups and/or individual members of the public who are not actual event sponsors, but have an expressed or known interest in a particular event or waterway. This includes protest groups, concerned citizens, or other waterway users who may be impacted by the event. Efforts should be taken to avoid infringing on the lawful use of the waterway by these individuals or groups, while still maintaining the safety of the marine event.
- E. Application. The sponsor of a marine event meeting the criteria in 33 CFR § 100.15 shall submit an application in accordance with timelines prescribed in that section. The sponsor is responsible for the safe conduct of the event. The application must provide sufficient information to support a determination that the event will be well-organized and planned to prevent undue risk. When event sponsors are considering whether or not to request a permit from the Coast Guard, units should recommend they err on the side of caution and submit Applications for Marine Event, form CG-4423, for any triggering event which has *any possibility* of impacting the navigable waters of the United States. It is far better for an event sponsor to engage the Coast Guard early for an event that ultimately does not require a Permit for Marine Event, Form CG-4424, than to fail to do so for an event that does. Even when a permit is ultimately deemed not necessary, Coast Guard input on the event may improve its overall safety.
- F. Forms. Applications should be received on the Application for Approval of Marine Event, Form CG-4423. Unit-created substitutes for the approved form or other similar Coast Guard generated forms used to collect this information are expressly prohibited, as they may violate the Paperwork Reduction Act. Unit feedback on the design or make-up of the Approval of Marine Event, Form CG-4423, should be directed to the Director of Marine Transportation Systems (CG-5PW) via the

chain of command. Any standardized letter or other mechanism developed to solicit information from the public in lieu of, or in addition to, the for Approval of Marine Event, Form CG-4423, must be evaluated by the servicing district legal office for compliance with the Paperwork Reduction Act.

NOTE: Designated Officers may correspond with a particular person or event sponsor to obtain information required to properly evaluate the application. Such correspondence, however, should be specific to the situation and not include a unit generated “form.”

- G. Timelines. Although 33 CFR § 100.15 (c) firmly establishes the timeline for submission of an Application for Marine Event, marine event applications will not be disapproved *solely* because the application was not submitted on time. This is particularly true since not all applications will result in a permit. Designated Officers should make a good faith attempt to evaluate permit applications regardless of when they are received. At a minimum, the application should be reviewed to determine if a marine event permit is required. If an application cannot be adequately evaluated in the time afforded, correspondence should be sent to the sponsor outlining what aspects of the application are unable to be evaluated in the time provided and identify the Federal, State, or local agencies involved in the approval process. Chapters 3 and 6 of this Manual discuss disapproval of permit applications when the Coast Guard has insufficient time to adequately review, analyze, and publish the marine event.
- H. Assisting Event Sponsors.
1. Frequent and early communication will assist event sponsors in crafting quality applications that ultimately assist the Coast Guard. To the extent possible, Coast Guard units should communicate with applicants before the submission of a marine event application to discuss potential safety concerns, as well as ways to address and mitigate those concerns. If certain safety concerns are present that may result in the rejection of the application, units should communicate this fact to the event sponsor before the application is submitted. Units should also actively assist event sponsors whenever requested to the extent practicable.
 2. Units should refrain from issuing marine event permits with conditions. Rather than placing conditions on a marine event permit, units should communicate with event sponsors before the submission of an application, or immediately after its submission, to discuss any safety concerns and negotiate the measures to address those concerns. In doing so, the event sponsor can include these safety measures in their application or amended application. This method not only supports a collaborative process that reduces or eliminates risks through the negotiation of acceptable safety measures by both parties, but also eliminates the burdensome resubmission process that occurs in the absence of early communications. In addition, prior discussions avoid any potential legal challenges to the Coast Guard’s authority to place certain conditions on a marine event permit. Permit conditions are discussed in more depth in Chapter 4 of this Manual.
 3. Units may develop handbooks or other guides tailored to the types of marine events typically conducted and the AOR in which they occur to assist event sponsors through the marine event permitting application process. Such action is highly encouraged. If a unit develops a handbook, pamphlet, or any other guidelines for public use, these publications must be reviewed by the District legal office and public affairs staff to ensure compliance with all laws,

regulations, and directives. Copies of these publications should also be shared with the Director, Marine Transportation Systems (CG-5PW).

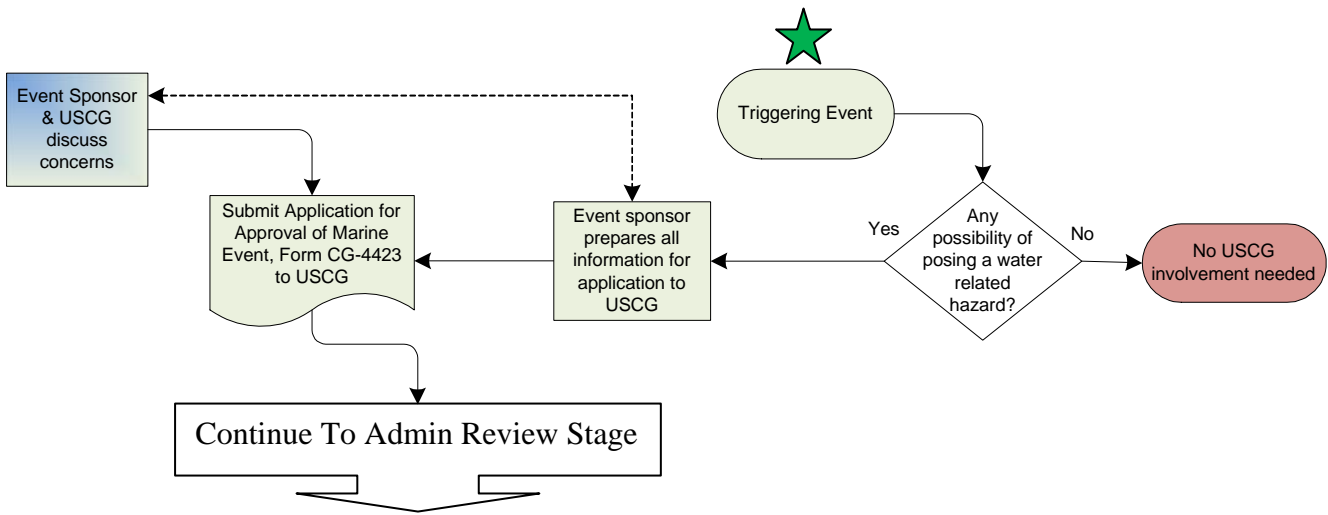


Figure: 2-1 Outreach and Application Stage: In this stage the event sponsor(s) work closely with the Coast Guard to plan the event, prepare the Application for Approval of Marine Event, Form CG-4423, and collect/provide supporting documentation. Flowchart starts with green shaded star.

CHAPTER 3. ADMINISTRATIVE REVIEW STAGE

- A. Initial Administrative Review. All applications shall undergo initial processing to ensure completeness and readiness for a qualitative assessment. If information is missing or ambiguous, the unit processing the permit application shall contact the event sponsor immediately to request clarification. See Figure: 3-1 for an example of how the Administrative Review Stage flows.
- B. Determination of Appropriate Authorities. While the Coast Guard supports the submission of an Application for Marine Event for any triggering event which has *any possibility* of impacting the navigable waterways of the United States, it is the Coast Guard's responsibility to determine if the triggering event actually involves a marine event requiring the issuance of a Permit for Marine Event, Form CG-4424. Coast Guard personnel, rather than the event sponsor, are best positioned to make this determination based on the totality of the facts. While other tools may be available to mitigate safety concerns associated with the triggering event that does not require a Permit for Marine Event, Form CG-4424, only the *marine events* that occur as a result of the triggering event should be considered for the issuance of a permit under Reference (b). As previously noted, however, some triggering events (e.g., boat races or regattas, parades of ships, swim events, etc.) may themselves qualify in their entirety as a marine event.
- C. Determination of No Coast Guard Authority under 33 CFR Part 100. Through Reference (a), Congress has granted the Coast Guard a powerful, but limited, authority to regulate marine events. If the triggering event does not result in a marine event, the Coast Guard cannot issue a Permit for Marine Event, Form CG-4424. Paragraph D of this Chapter discusses other tools available to the District Commander and Captain of the Port if it is determined that a Permit for Marine Event, Form CG-4424, is not the appropriate tool. If it is determined that the triggering event does not result in a marine event requiring a permit, the following actions should be taken:
1. Notify the event sponsor that no Coast Guard permit is required.
- NOTE:** Such correspondence should be careful to explain that the Coast Guard's decision in no way implies that the event is considered safe, and that the sponsor is still responsible for the overall safety of the event and obtaining any appropriate permits from other Federal, State, or local authorities. Enclosure (4) of this Manual contains a sample letter template.
2. Provide a copy of the correspondence required above, or any other form of communication explaining that a permit is not required, to interested Federal, State, or local authorities, including environmental agencies. Enclosures (3) and (5) are examples of correspondence forwarding "No Action on Permit" decisions to other agencies. This provides visibility of the event to partner agencies which might not otherwise be aware of the sponsor's intentions and which may have an interest in exercising their own authorities over aspects of the event. Designated Officers shall maintain a list of other agencies with marine event or triggering event-related responsibilities. Such a list should, at a minimum, include the state boating law administrator in accordance with any existing Coast Guard/State Recreational Boating Safety Cooperative Agreements.
- D. Consideration of Other Coast Guard Authorities. Regardless of whether an event requires a Permit for Marine Event, Form CG-4424, the Coast Guard may still take action under other authorities as

discussed in this Manual. Such actions include, but are not limited to: establishing limited access areas, conducting vessel inspections, monitoring the handling of explosives, patrolling the area of the event, and/or broadcasting notices to mariners. Types of limited access areas include:

1. Safety Zones.

- a. Generally, a safety zone is an area of water and/or land designated for a certain time for safety or environmental purposes. To protect human safety or the environment, a safety zone will limit public access to the area. Except for those situations where a safety zone is needed around an Outer Continental Shelf facility, safety zones may not extend beyond the twelve-mile territorial sea. Regulations governing the establishment of safety zones on the Outer Continental Shelf are located in 33 CFR Part 147. Either a District Commander or COTP may establish a safety zone under Subpart (C) of Reference (h), but only a District Commander may establish a safety zone on the Outer Continental Shelf.
- b. If a new safety zone either encompasses any part of a traffic separation scheme (TSS) or causes additional vessels to enter a TSS, inform the public that 72 COLREGS governs vessels in a TSS. See 33 U.S.C. §§ 1602 and 1603; 28 United States Treaties and Other International Agreements 3459; Treaties and Other International Acts Series 8587.

EXAMPLE: To protect the safety of spectator vessels, the COTP issues a safety zone surrounding a river barge used to launch fireworks. A fireworks display in most cases will not require a Permit for Marine Event, Form CG-4424, but the COTP can promulgate a Safety Zone to protect an element of the triggering event.

2. Security Zones.

- a. Generally, a security zone is an area of water and/or land designated for a certain time to protect vessels, harbors, ports and waterfront facilities from sabotage, damage or injury due to subversive acts, accidents or other causes of a similar nature. To provide protection to a vessel or waterfront facility, a security zone will often surround a vessel or a waterfront facility, preventing other vessels from approaching.
- b. If a new security zone either encompasses any part of a traffic separation scheme (TSS) or causes additional vessels to enter a TSS, units must consult with their servicing district Staff Judge Advocate to determine if there are any additional Coast Guard responsibilities.

EXAMPLE: To guard against injury from sabotage or other subversive acts, the COTP established a security zone 250 yards around a facility loading fireworks for a marine event. Such an event in some cases may not require a Permit for Marine Event, Form CG-4424, but the COTP can promulgate a Security Zone to protect an element of the triggering event.

3. Regulated Navigation Areas. A regulated navigation area is a water area within a defined boundary for which regulations for vessels navigating within the area have been established. The District Commander can issue a regulated navigation area to control vessel traffic in a place determined to have hazardous conditions. Regulated navigation areas usually prescribe the type of vessels that may enter the area, may restrict vessel clearance, draft, and length, or the manner in which vessels may travel. Regulated navigation areas differ from safety and security zones in

two respects: (1) only District Commanders are authorized to establish regulated navigation areas and COTPs may not; and (2) safety and security zones principally control access to an area. Although regulated navigation areas may also control access to an area, if necessary, they principally regulate the operation of those vessels allowed inside the area.

EXAMPLE: An event sponsor wants to conduct an elaborate art show on a beach adjacent to the navigable waters of the United States. One of the art exhibits is going to draw water for cooling in such a fashion as to make navigating the area hazardous to certain small vessels. After determining that the waters surrounding the area are hazardous to certain vessels, the District Commander issues a regulated navigation area establishing the following requirements: vessels less than 25 feet in length must progress at speeds less than 5 knots through the impacted areas. No anchoring is authorized within the area.

4. Special Anchorage Areas and Anchorage Grounds.

- a. A special anchorage area is a designated water area within which vessels:
 - (1) Sixty-five feet or less in length are not required to carry or exhibit the white anchor lights required by the Navigation Rules (33 CFR Part 109);
 - (2) Less than 20 meters shall not be required to exhibit anchor light and shapes required by the Navigation Rules (33 CFR § 83.30 (g)); and,
 - (3) Less than 20 meters shall not be required to sound the signals required by the Navigation Rules (33 CFR § 83.35 (j)).
- b. An anchorage ground is a designated water area in which rules and regulations are adopted with respect to anchoring vessels. Such rules can range from anchoring notification requirements to the Captain of the Port or rules for lightering or conducting other vessel operations while anchored in the area. Section 7 of the Rivers and Harbors Act of March 4, 1915 (33 U.S.C. § 471), authorizes the establishment of anchorage grounds for vessels in navigable waters of the United States whenever it is apparent that these are required by the maritime or commercial interests of the United States for safe navigation. The statute also authorizes the adoption of suitable rules and regulations regarding the establishment of anchorage grounds, which are enforced by the Coast Guard. Anchorage grounds are established through the rulemaking process and are made in consultation with the U.S. Army Corps of Engineers.

NOTE: In other words, a special anchorage area only exempts smaller vessels from exhibiting anchor lights and/or sounding signals and other signals cited in Rules 30 and 35 of both the International and Inland Navigation Rules. Conversely an anchorage ground may prescribe several rules with respect to anchoring vessels.

EXAMPLE: The District Commander establishes a special anchorage area exempting vessels sixty-five feet or less in length from exhibiting white anchor lights required by the Navigation Rules. In another area, the District Commander establishes an anchorage ground for event spectator vessels, with the caveat that no vessel may anchor in the anchorage

ground for a period longer than twenty-four hours without the permission of the Captain of the Port.

5. Drawbridge Operation (33 CFR Part 117).

- a. Drawbridges must open upon signal from a vessel, unless otherwise specified in regulation. Anyone may request permission from the appropriate District Commander for a drawbridge to deviate from the operating schedules, and the bridge owner must receive permission before commencement of a deviation.
- b. For any temporary change to the operating schedule of a drawbridge lasting less than or equal to 180 days, the District Commander may issue a deviation approval letter and must publish a notice in the Federal Register. The regulations afford District Commanders flexibility and discretion to temporarily change bridge operating schedules in response to inclement weather, repair or maintenance needs, and public events, to test alternative operating schedules, and to protect public health and safety.

EXAMPLE: The operator of the Terrebonne Parish Bridge requested the Eighth District Commander to authorize deviation from the schedule published in the regulations to facilitate a triathlon, the route for which would include participants swimming under the bridge and running across the bridge. The Eighth District Commander sent correspondence to the operator authorizing the deviation. The District Commander also published a notice of temporary deviation in the Federal Register and in the Local Notices to Mariners.

E. Disapproval During Administrative Review. In some cases the Coast Guard will make an immediate assessment that the event cannot receive a permit. For the purposes of this Manual, disapprovals which are made without a detailed risk/safety analysis are considered “Disapprovals during Administrative Review.” In those instances, the preferred outcome is for the event sponsor and the Coast Guard to discuss the concerns and for the sponsor to submit a new application that addresses the initial concerns. Disapproval during Administrative Review is considered a “Type I disapproval;” see Chapter 6 paragraph D and Enclosure (6) of this Manual for more details. All disapprovals must be documented as described in Chapter 8 of this Manual. Reasons for disapproval during Administrative Review could include, but are not limited to:

1. **EXAMPLE:** Conflicting activities in the area, such as another marine event, range firing, military maneuvers or dredging;
2. **EXAMPLE:** Previously documented experience with the sponsoring organization has involved irresponsibility, violations of the terms of approval, or disregard for public safety;
3. **EXAMPLE:** Ineffective control of the event without adequate corrective measures; or,
4. **EXAMPLE:** Late submission of application. In some cases, applications must be disapproved due to lateness of application, particularly when there is insufficient time prior to the event to complete the six-stage review required by this Manual. A late application alone should not serve as a reason to disapprove an application if the unit has sufficient time and/or resources to complete the review required by this Manual.

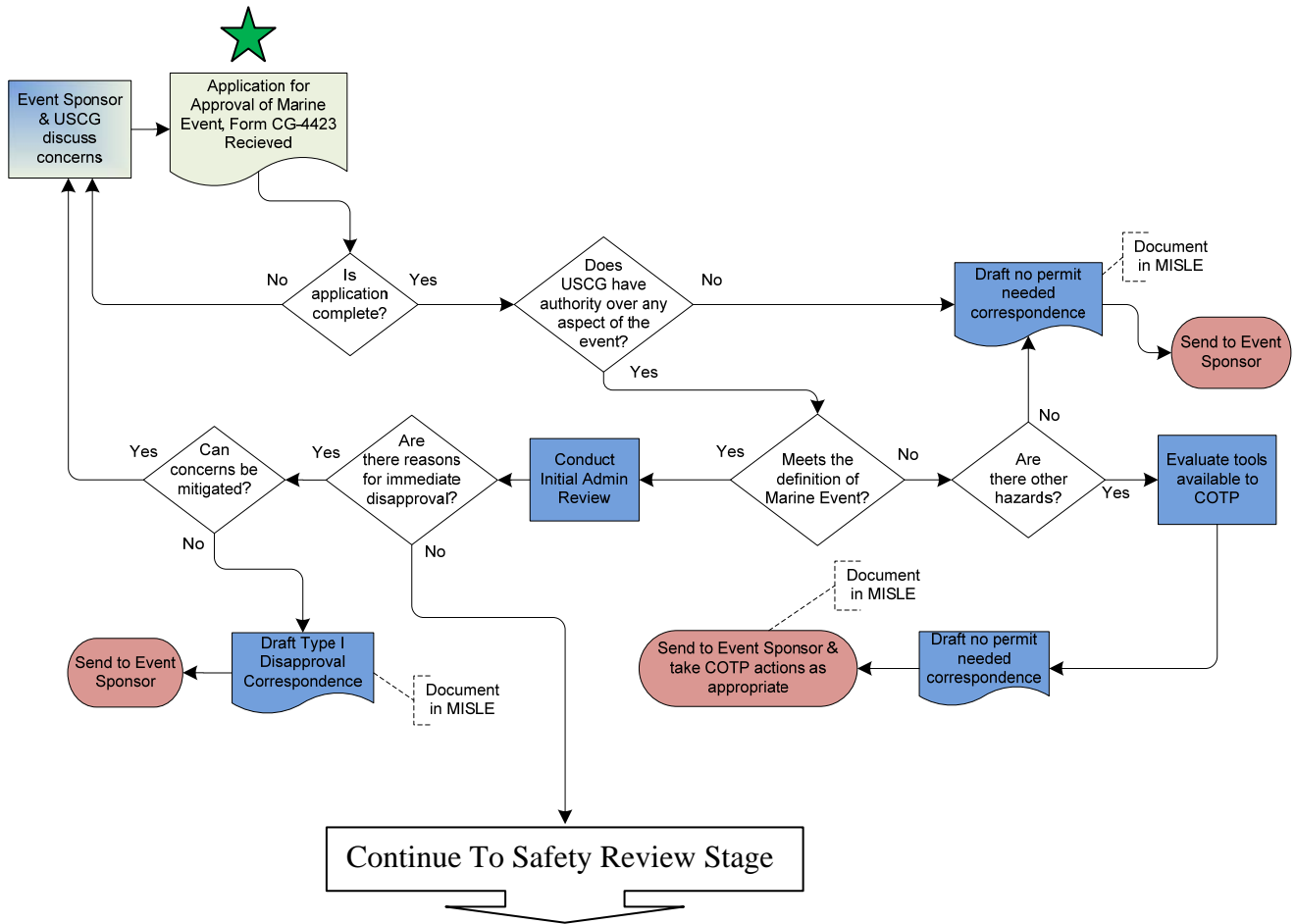


Figure: 3-1 Administrative Review Stage. In this stage the Coast Guard evaluates the completeness of the application, examines if the Coast Guard has authority over any aspect of the event, determines if a marine event is part of the triggering event, and considers other administrative issues concerning the event sponsor’s history and timeliness of the application. Flowchart starts with green shaded star.

CHAPTER 4. SAFETY REVIEW STAGE

A. Risk-Informed Decision Making.

1. District Commanders and Designated Officers must utilize a defensible and repeatable risk - informed decision making process to determine if an event meets the definition of a marine event as outlined in 33 CFR § 100.05 and is likely to introduce an extra or unusual hazard to the safety of human life. Therefore, upon receipt of a complete Application for Approval of Marine Event, Form CG-4423, units must determine the following prior to taking any action:
 - a. Will the event involve an unusually large concentration of traffic on the water or otherwise interfere with routine navigation?
 - b. Will the event include inherently hazardous competitions or are craft expected to travel at high speeds?
 - c. Is there an expectation, or does historical data exist, that predicts the presence of non-participant commercial or pleasure craft in the area that may interfere with the safe conduct of the event?
 - d. Could the event result in a hazard to navigation as defined in 33 CFR§ 64.06?
 - e. Is the waterway itself especially hazardous (e.g., speed of current, presence or proximity of rocks and shoals, etc.)
 - f. What is the safety history of similar events?
 - g. Are there any safety concerns unique to the local area that must be addressed?
 - h. Are the existing navigation rules sufficient, or should they be supplemented in the vicinity of the proposed event?
2. If the answer to any of the above questions is “yes,” then the event likely poses an extra or unusual hazard to the safety of life.

NOTE: The above list is not intended to be all inclusive. District Commanders and Designated Officers may supplement the list with specific local concerns; however, reasons for issuing Permits for Marine Events, Form CG-4424, must be safety-related and within existing Coast Guard authorities.

B. Determination of No Extra or Unusual Hazard.

1. If a sponsor submits an application for an event and the District Commander, Captain of the Port, or Designated Officer subsequently determines that the application is either outside the scope of the Coast Guard’s authority or is not likely to introduce an extra or unusual hazard to the safety of human life, then the application should be returned to the sponsor with correspondence explaining that the event does not currently require a Coast Guard permit. This

correspondence should indicate that, should anything significant change in the proposed event, the application should be resubmitted for Coast Guard consideration. A “significant change” is anything that could alter the risk-informed decision made by the Coast Guard, including: a date change, a location change, an increase in the number of participants, an alteration to an event course (race, regatta, marine parade, etc.), an accident or marine casualty associated with a similar event, etc.

NOTE: All activities on the water carry some risk. The Coast Guard has a suite of authorities the District Commander or Captain of the Port can apply to manage this risk. A determination that a Permit for Marine Events, Form CG-4424, is not required does not mean the activity is completely without risk or hazard, only that the risk is not considered “extra or unusual to the safety of human life” as defined in this Manual.

2. Units processing permit applications shall maintain a list of other agencies with marine event-related responsibilities, and provide a copy of this correspondence for their visibility. Such a list must, at a minimum, include the state boating law administrator in accordance with any existing Coast Guard/State Recreational Boating Safety cooperative agreements.
- C. Navigational Impact Test. In developing risk-informed standards for determining which marine events require permits, District Commanders should consider the impact of events on safe navigation. If the existing navigation rules are sufficient and additional tools, such as special local regulations are not required, the event *ordinarily* will not require a permit. If a permit is not required, Designated Officers should consider other tools available to the Captain of the Port or District Commander, such as vessel inspection regulations, limited access areas, or Captain of the Port Orders.
- D. Coast Guard Safety Risk-Mitigation Tools.
1. Special Local Regulations. Special local regulations may be promulgated after approval of an application if a District Commander or Captain of the Port determines that special local regulations are necessary to insure the safety of life on the navigable waters of the United States immediately prior to, during, and immediately after a marine event. Special local regulations may be promulgated either to address safety issues beyond the control of the sponsor, or to remedy safety concerns insufficiently addressed in the sponsor's application. District Commanders should make sponsors aware that marine events requiring special local regulations will require additional time for the notice-and-comment rulemaking process. See 33 CFR § 100.35.
- EXAMPLE:** To promote safety of life on the navigable waters of the United States immediately before, during and after the power boat race, the District Commander issues special local regulations establishing three areas: (1) a "spectator area" restricting vessels to operate at No Wake Speed; (2) a "buffer zone" excluding all vessels; and (3) a "race area" limiting access to all vessels except those participating in or conducting the race.
2. Patrols. See Chapter 7 of this Manual.
 3. Notices and Broadcasts. Units shall disseminate information regarding all permitted marine events. Several tools are available to Designated Officers, including Local and Broadcast

Notices to Mariners, Homeport, the Federal Register, and/or other Marine Safety Information Broadcasts or bulletins. However, because the Coast Guard has an international treaty and statutory responsibility to disseminate important safety information regarding the status of all navigable waters of the U.S., Local Notice to Mariners and Broadcast Notice to Mariners are the primary mechanisms for disseminating this information. The other tools may be considered as secondary information conduits. Units should develop a consistent outreach strategy to ensure the public is aware of permitted events, and encouraged to utilize secondary communication strategies in addition to Local and Broadcast Notices to Mariners. In addition, units should consider using the same tools to promote public awareness of triggering events that may impact navigation or marine safety, but do not require Coast Guard permits.

4. Permit Conditions. The District Commander, Captain of the Port, or Designated Officer may include conditions on the permit requiring specific action from the event sponsor. This practice, however, should be limited in use to the following:
 - a. For marine safety at the event - The event sponsor, not the Coast Guard, is responsible for the safety of the event. The Coast Guard should avoid prescriptive conditions designed to force actions of the event sponsor to improve the safety of the event for participants. If the District Commander or COTP have concerns that the event sponsor will be unable to ensure the safety of the participants, then the application should be denied unless the event sponsor provides additional information, in writing, that demonstrates to the satisfaction of the Coast Guard that the sponsor has a safety plan in place that will mitigate these concerns. In these instances, the District Commander, COTP, or Designated Officer should engage in a dialogue with the event sponsor prior to issuing or denying a permit to discuss safety measures the sponsor can propose to satisfy the Coast Guard's safety concerns. Any resulting Permit for Marine Event, Form CG-4424, should indicate that the sponsor is required to comply with the provisions of their written event safety plan. Care should be taken to ensure no permit conditions require measures which the Coast Guard would not otherwise have the ability to enforce on the public. For example, units shall not require compliance with nationally-accepted standards or guidelines, such as those promulgated by the National Fire Protection Association (NFPA), the International Sailing Federation (ISF), the USA Triathlon (USAT), the American Power Boat Association (APBA), or similar organizations. The event sponsor, however, may utilize these standards in developing their event safety plan, and the Coast Guard may require the sponsor to comply with their proposed event safety plan.

NOTE: “Ensuring the safety of the event” should not be interpreted to mean that the event sponsor guarantees all safety or proves there is absolutely no risk. However, if specific safety concerns exist, the COTP should identify them, discuss the concerns with the event sponsor, and, ultimately, resolve those safety concerns, which may include an amendment to the marine event permit application.

- b. For environmental compliance at the event - The Coast Guard has an obligation under several environmental statutes to ensure that any event for which a Coast Guard Permit for Marine Event, Form 4424, is issued does not adversely impact the environment. To that end, the District Commander, COTP, or Designated Officer may include conditions with

which the event sponsor must comply for the permit to remain valid. These conditions are subject to the following provisions:

- (1) Conditions must be consistent with the "terms and conditions" of a biological opinion developed through consultation with the environmental services; and
- (2) Must be conditions the Coast Guard has the statutory authority to impose. In general, these include conditions on vessel operations, such as no wake requirements, speed restrictions, anchoring prohibitions, lookout requirements, etc., but do not include requirements the Coast Guard ordinarily could not impose on the boating public, such as requirements for third party monitoring, aerial observation, wetland restoration, etc.

c. If unable to negotiate safety-related terms prior to the submission or approval of an application, and must instead place conditions on the permit, units should consult with their servicing District legal office to ensure all conditions comply with applicable laws, regulations, and legal opinions.

5. Other District Commander or COTP Action. Regardless of whether or not a Permit for Marine Event, Form CG-4424, is issued for marine events arising from the triggering event, the Coast Guard may still take action under other authorities discussed in this Manual. Such action includes, but is not limited to, establishing the limited access areas discussed in Chapter 3, paragraph D, of this Manual, issuing Captain of the Port Orders, conducting vessel inspections, or monitoring the handling of explosives.

E. Sponsor Safety Measures. The sponsor is ultimately responsible for the safe conduct of the event. In order to demonstrate the safety of the event, the sponsor must provide details of any safety measures being employed for the event. Event sponsors can demonstrate a commitment to safety by implementing appropriate measures or combinations of measures, such as:

1. **EXAMPLE:** A detailed safety plan.
2. **EXAMPLE:** Designation of sufficient numbers of vessels and/or observers whose sole task is to ensure the safety of the event.
3. **EXAMPLE:** Compliance with nationally-accepted standards, such as the National Fire Protection Association (NFPA), International Sailing Federation (ISAF), USA Triathlon (USAT), American Power Boat Association (APBA), or others.
4. **EXAMPLE:** Approved permits from other Federal, State, and local authorities, as applicable.
5. **EXAMPLE:** A demonstrated acceptable safety record by the event sponsor for past events similar to the one proposed in the permit application.

NOTE: The list above is not all inclusive. It demonstrates some commonly used mechanisms for demonstrating sponsor efforts to ensure safety for an event. These examples should not be viewed as requirements of this Manual.

F. Protestor Safety Measures.

1. The Coast Guard should make every effort to avoid impeding, or appearing to impede, the lawful freedom of expression by members of the public so long as the overall safety of the marine event is maintained. Any restrictions which impede protesters must be content-neutral and not broader than necessary to achieve the safety goal. The servicing district Staff Judge Advocate can assist in balancing First Amendment rights with the mandate to promote marine safety.
2. In some cases protest activity will, in itself, qualify as a marine event if it meets the requirements outlined in this Manual. In those instances, the Coast Guard should work closely with the protest group (event sponsor) to devise a mutually agreeable strategy and safety plan that balances free expression of the protest group with the safety of any associated marine events. In no cases should safety be compromised, but it is the Coast Guard policy to employ the least restrictive measures that will allow for lawful free expression.

G. Disapproval for Safety Reasons. In some cases, the Coast Guard must disapprove an event based on safety concerns resulting from a risk-based analysis. In those instances, the preferred course of action is for the event sponsor and the Coast Guard to discuss those specific safety concerns. The event sponsor should be encouraged to submit a new application that addresses those safety concerns and provides for additional safety measures, as appropriate. Disapproval for Safety Reasons is considered a “Type II disapproval.” See Chapter 6, paragraph D, of this Manual and Enclosure (6) of this Manual for more details. All disapprovals must be documented as described in Chapter 8 of this Manual. Disapproval for safety reasons include, but are not limited to:

1. **EXAMPLE:** Obstructing navigation by blocking a channel or harbor entrance, which results in an unsafe condition;
2. **EXAMPLE:** Impeding vessel traffic, which creates unsafe congestion;
3. **EXAMPLE:** Exposing small craft to hazards associated with the presence of large vessels, tows, etc.;
4. **EXAMPLE:** Safety measures insufficient to the nature of the event;
5. **EXAMPLE:** High risk factors that may render the event unsafe (in the opinion of the District Commander or Designated Officer); or
6. **EXAMPLE:** A history of accident, incidents or marine casualties associated with similar events that cannot be adequately mitigated.

H. Conducting the Safety Review Stage. See Figure: 4-1 for an example of how the Safety Review Stage flows.

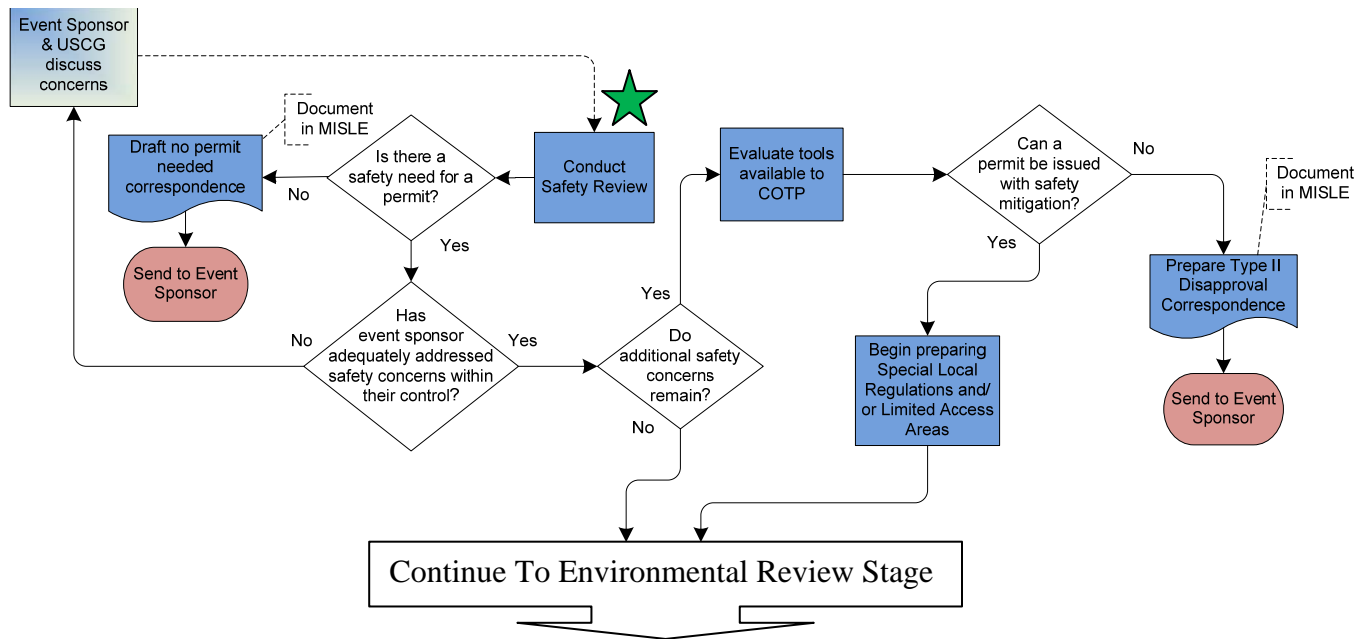


Figure: 4-1 Safety Review Stage. In this stage, the Coast Guard applies a risk-informed decision-making process to determine whether the event poses extra or unusual hazards to the safety of human life to warrant a permit and, secondly, to determine what, if any, safety mitigation measures are required by both the Coast Guard and the event sponsor. Flowchart starts with green shaded star.

CHAPTER 5. ENVIRONMENTAL REVIEW STAGE

A. Environmental Compliance.

1. All Coast Guard actions are subject to and must be consistent with the procedures and intent of the National Environmental Policy Act (NEPA) and References (d) and (l), as well as the Department of Homeland Security Environmental Planning Program Manual (DHS Management Directive 023-01), the Endangered Species Act, Marine Mammals Protection Act, and other applicable environmental laws and policies. Once a District Commander or Designated Officer determines that a marine event is within Coast Guard jurisdiction and is likely to introduce an extra or unusual hazard to the safety of human life, the marine event must be evaluated for its impact on the quality of the human environment.
2. The term “human environment” per the Council of Environmental Quality NEPA implementing regulations is defined as the “natural and physical environment and the relationship of people with that environment.” Examples of potential impacts that should be evaluated include, but are not limited to, potential impacts to marine mammals, endangered species or their critical habitat, marine protected areas, cultural or historic resources, migratory birds, protected corals, wetlands, etc. Ensuring compliance with NEPA and other environmental laws triggered by the issuance of permits or regulations to ensure the safety of a marine event is the responsibility of the District Commander or his or her Designated Officer. In order to accomplish this, it is important that the environmental staff in the Shore Infrastructure Logistics Center (SILC) Environmental Management Division (EMD) be consulted on compliance with environmental laws. In some cases, specific environmental compliance responsibilities may have been delegated by the SILC EMD to properly trained district staff.

B. Federal Actions. NEPA applies to all Coast Guard actions. Federal actions subject to NEPA analysis include both the promulgation of regulations and issuance of permits. The environmental planning process should therefore occur concurrently with the review of marine event applications and drafting of Special Local Regulations, when required.

C. Categorical Exclusions. Most marine event permitting actions are not normally considered to have a significant impact on the quality of the human environment, and are typically categorically excluded from further environmental documentation under paragraph 2-B-2.c. of Reference (d). A categorical exclusion (CE) is NOT AN EXEMPTION from NEPA, but a “category of actions that do not typically result in individual or cumulative significant environmental effects or impacts.” CE’s are both a NEPA analysis and a decision document. Applicable CE’s are listed within 67 F.R. 48243, as described in Reference (d).

- D. Limitations on Using Categorical Exclusions. Under certain circumstances, an action normally considered to be categorically excluded could require additional environmental review. While the simple existence of any of the circumstances described below does not necessarily require preparation of an Environmental Assessment (EA) or an Environmental Impact Statement (EIS), the presence of any of these circumstances warrant further evaluation to determine whether an EA or EIS may be required. This determination is made by considering whether the specific action is likely to involve one or more of the following circumstances:
1. A potentially significant effect on public health or safety;
 2. A site that includes or is near a unique characteristic of the geographic area, such as an historic or cultural resource, park land, prime farmland, wetland, wild and scenic river, ecologically critical area, or property requiring special consideration under 49 U.S.C. § 303(c);
 3. An effect on the human environment that is highly uncertain or involves unique or unknown risks;
 4. Future precedent setting actions with significant effects or a decision in principle about a future consideration;
 5. An individually insignificant, but cumulatively significant, impact when considered along with other past, present, and reasonably foreseeable future actions;
 6. A district, site, highway, structure, or object that is listed in, or eligible for listing, in the National Register of Historic Places, or the loss or destruction of a significant scientific, cultural, or historical resource;
 7. Species or habitats protected by the ESA;
 8. An effect on the quality of the human environment that is likely to be highly controversial;
 9. A potential or threatened violation of a Federal, state, or local law or requirement imposed for the protection of the environment; and
 10. An impact that may be both beneficial and adverse.
- E. Additional Environmental Review. Persons processing or approving applications for permits should be alert to circumstances that may require additional environmental review, and preparation of an environmental assessment or environmental impact statement. Such circumstances are discussed in more detail in References (d) and (l).
- F. Coordination with Other Agencies. After a decision is made to issue a permit for a marine event, appropriate Federal, State, and local agencies shall be afforded the opportunity to review the application and provide input on environmental, endangered species, marine sanctuary or coastal zone management concerns. Direct contact with local offices of the Fish and Wildlife Service and National Marine Fisheries Service is authorized to determine if any threatened or endangered species, or their critical habitat, are present in the area of the proposed marine event. Permit applications that may require additional environmental review and documentation shall be

coordinated with the SILC EMD. Enclosure (7) is a sample forwarding letter. In some cases, Endangered Species Act Section 7 consultations may be required and in some cases, programmatic Endangered Species Act Section 7 may have already been completed for a particular area. The programmatic consultation may list certain measures that must be carried out for certain marine events analyzed in the programmatic consultation. In coordinating with other agencies, Designated Officers should take care to not exceed Coast Guard authority when applying conditions to permits. The Coast Guard may only place conditions on a Permit for Marine Event, Form CG-4424, that the Coast Guard has the authority to impose. Chapter 4 of this Manual includes discussion on permit conditions. Permit applicants should be involved throughout the consultation process with regulators under the Endangered Species Act. See 50 C.F.R. § 402.11(a).

G. Mitigating Environmental Concerns.

1. Event sponsors can mitigate environmental concerns through specific actions designed to reduce the impact of the proposed event on the environment. However, mitigation measures cannot be used to mitigate the action into a categorical exclusion determination when it would otherwise require an EA or EIS. Mitigation measures that are part of the proposed action, usually from the beginning, can be categorically excluded if an appropriate CE applies. In general, a particular Federal action is either categorically excluded or it is not. It is therefore better for the event sponsor to include environmental mitigation measures in their application, rather than have the Coast Guard require these measures as conditions on the permit.
2. Units must exercise particular care to avoid requiring environmental mitigation beyond the Coast Guard's authority. This is particularly true of environmental mitigation for the impacts of the triggering event itself.

EXAMPLE: An event sponsor is requesting a Permit for Marine Event, Form CG-4424, for vessel spectator areas associated with a fireworks display. The Designated Officer determines that a Permit for Marine Event, Form CG-4424, is warranted due to the safety concerns associated with the congregation of spectator craft near a shipping channel. However, there is a concern that the noise from the fireworks may impact a nearby bird habitat containing the nesting area of an endangered piping plover. Because the Coast Guard is not issuing a permit for the actual launching of fireworks, only for the associated gathering of spectator craft, requiring mitigation measures to limit the impact on the bird habitat from the fireworks is beyond the Coast Guard's authority under References (a) and (b). Units may not exceed Coast Guard authority; therefore, requiring mitigation measures for this issue is inappropriate. The event sponsor may require additional permits from other Federal, State, or local authorities for the event in order to mitigate these impacts.

- H. Responsibilities. Reference (d) explains in detail Coast Guard responsibilities for those who prepare and sign NEPA documents. In general, during the environmental review stage of marine event evaluations, persons processing or approving applications for permits must ensure they maintain a well-documented administrative record that explains the environmental review undertaken by the Coast Guard, and the resulting decisions. Such documentation must be retained in accordance with the Information Life Cycle Management Manual, COMDTINST M5212.12 (series), SSIC 16600, Item Number 2. Documentation resulting from Coast Guard NEPA processes within this administrative record may require the signature of the preparer, environmental reviewer,

and/or the responsible official. When signatures are required by Reference (d), the following policy normally applies:

1. Preparer. The Coast Guard official processing or approving applications for marine events is considered the preparer. The preparer is the writer, and is responsible for the quality of the environmental and technical analysis and documentation. In most cases this will be the Designated Officer as defined in paragraph 1.B.2 of this Manual. Reference (d) provides additional guidance when contractors or event sponsors are involved in preparing environmental documentation.
2. Reviewer. The environmental reviewer is the individual responsible for reviewing the environmental content of the document to provide feedback to the Responsible Official on whether or not the analysis and documentation complies with NEPA, as well as the Council on Environmental Quality, Department of Homeland Security, and Coast Guard environmental policies and procedures. For marine events, this normally is a Coast Guard representative designated by the SILC or Commandant (CG-47). For more specific information regarding who can sign as reviewer on NEPA documentation, see Reference (d).
3. Responsible Official. The responsible official is the person with the authority for either making the decision or developing the final recommendation for a decision on the actions analyzed in the NEPA document. For Permits for Marine Events, Form CG-4424, this is considered the person authorized to approve the permit as discussed in paragraph 1.D. of this Manual.

I. Coastal Zone Management Act (CZMA) Compliance.

1. The Coastal Zone Management Act requires Federal agencies to determine which of their activities affect any coastal use or resource of States with approved management plans. Activities may be generally separated into direct federal actions and grants of permits. Separate CZMA regulations apply to each category of activity. Effects are determined by looking at reasonably foreseeable, and direct and indirect effects on any coastal use or resource. An action which has minimal or no environmental effects may still have effects on coastal use (e.g., effects on public access or recreational activities). 15 CFR § 930.33(a)(1) contains additional guidance.
2. When a marine event requires a permit: Regulations contained at 15 CFR Part 930, Subpart D (Federal License or Permit Activities - non-federal applicants) are applicable if the permitting action is listed on a state coastal management plan (CMP) approved by the National Oceanic and Atmospheric Administration (NOAA). For example, if the State CMP lists permits for high speed boat races as “permitting activity requiring a consistency determination” then the regulations contained at 15 CFR Part 930, Subpart D would apply. These regulations require the *applicant* (event sponsor) to complete a certification of consistency to the State in conjunction with the Applications for Marine Event, form CG-4423. The Coast Guard does not complete the certification, but should notify the applicant (event sponsor) of CZMA requirements. The State has up to six (6) months to review an applicant's certification after proper submission. In contrast to direct Federal actions, permitting activity must be fully consistent with the state CMP, as opposed to consistent to maximum extent practicable. If a State objects to an applicant's consistency certification, the Coast Guard cannot, by regulation,

issue a Permit for Marine Event, Form CG-4424. The applicant may appeal the decision to the Secretary of the Department of Commerce. Following this administrative appeal, either the applicant (event sponsor) or the Coast Guard can bring suit in Federal district court to challenge the State's decision.

3. The establishment of limited access areas to ensure safe navigation during a marine event is a direct federal action which may constitute a “use” of a State's coastal resource. A consistency determination (CD) may therefore be required for this use. Regulation requires that the Coast Guard conduct a consistency determination for each use of a State's coastal zone. With certain exceptions, a consistency determination is required 90 days in advance of the proposed federal action.
4. Given that the Coast Guard's routine and frequent regulations in support of marine events are generally consistent with the policies of State CMP, a better process of ensuring compliance with the CZMA (with respect to marine events) is to seek a General Consistency Determination (GCD) at the District level for these actions. 15 CFR § 930.36(c) and (e) address GCDs. These actions are either repetitive acts that may (but are not likely to have) incremental cumulative effect, but do not have effects when performed separately or they qualify as a *de minimus* use of the coastal zone. The CZMA encourages Federal agencies to review their activities, other than development projects within the coastal zone, to identify *de minimus* activities, and request State agency concurrence that these activities should not be subject to State agency review if a Federal agency and the State agency have agreed. Reference (m) provides guidance on Coast Guard CZMA procedures. District Legal offices should work with their respective State Coastal Management Plan offices to seek General Consistency Determinations for qualifying events or types of events.

J. Endangered Species Act (ESA) Compliance:

1. ESA Section 7 requires the Coast Guard, in consultation with the National Marine Fisheries Service (NMFS) or U.S. Fish and Wildlife Service (USFWS), or both (as appropriate) to ensure that any action authorized, funded, or carried out by the Coast Guard is not likely to jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of any designated critical habitat. There are three possible scenarios with respect to the ESA following discretionary Federal agency action:
 - a. Actions with no effect;
 - b. Actions that may affect but are not likely to adversely affect; and
 - c. Actions that affect and are likely to adversely affect.
2. Actions that may affect and are likely to adversely affect a listed species require formal consultation with environmental agencies. An Incidental Take Statement (ITS), contained in a biological opinion issued by the consulting agency, will provide for Reasonable and Prudent Measures (RPM) to be taken by the Coast Guard, as well as Terms and Conditions for the action (See 50 CFR § 402.14(i)(1)(ii)). An ITS may have already been issued for certain areas of responsibility which contain RPM's that should be carried out for certain marine events.

3. The Endangered Species Act and its implementing regulations contain special provisions if an “applicant” is involved. In the context of marine events, the applicant is the event sponsor. Specifically, extended timelines for review may be triggered and the Coast Guard must provide the applicant (event sponsor) with the opportunity to submit information for consideration during the consultation between the Coast Guard and other environmental agencies.
4. Once a permit application reaches the environmental review stage and the Coast Guard is still considering issuing a permit for the marine event, the impact on listed species must be evaluated. If the marine event may affect a species listed as endangered or threatened or its critical habitat, you should contact the SILC EMD and the servicing Staff Judge Advocate.

NOTE: The Coast Guard must evaluate the potential direct and indirect impacts of the action which it is taking. In the context of this Manual, that is the issuance of a Permit for Marine Event, Form CG-4424. Because the Coast Guard is neither authorizing nor prohibiting the triggering event, its impacts are not considered unless the triggering event itself cannot occur without Coast Guard approval. Your servicing Staff Judge Advocate can assist in determining the scope of Coast Guard obligations.

- K. Marine Mammal Protection Act (MMPA) Compliance. With certain limited exceptions, the MMPA provides an absolute prohibition on the taking of any mammal covered by the Act. Take is defined under Section 3 of the Act to mean to "harass, hunt, capture or kill any marine mammal." This definition includes negligent or intentional acts which result in the disturbing or molesting of a marine mammal (16 U.S.C. § 1533 et seq). In the context of marine event permits, the Coast Guard, in approving a regatta or marine parade must ensure this Federal action does not constitute a take of any marine mammal. In addition to the moratorium on any takings, the MMPA strives to enhance the viability of Marine Mammals through the protection of habitats and ecosystems associated with marine mammals. This includes the protection of essential habitats, including rookeries, mating grounds, and areas of similar significance from the adverse effects of man's actions, with the primary objective of maintaining the health and stability of the marine ecosystem. A marine event permit should consider the impact on any marine mammal habitat or ecosystem in accordance with the MMPA. Marine mammal consultation is often carried out in conjunction with the Endangered Species Act Section 7 consultation described in Paragraph J of this Chapter.
- L. National Historic Preservation Act (NHPA) Compliance. Section 106 of the NHPA requires that the Coast Guard consider the impact of any federal action or issuance of a permit on sites listed on, or eligible to be listed on, the National Register of Historic Places which may also include certain tribal lands. Specifically, it requires the Coast Guard to "take into account" the effect a permit may have on historic properties. It allows interested parties an opportunity to comment on the potential impact permits may have on significant archaeological or historic sites. The main purpose for the establishment of the Section 106 review process is to minimize potential harm and damage to historic properties. Some marine events could have an impact on a historic or archaeological site. For example, some historic shipwrecks, vessels, bridges, and waterfront structures are either on or eligible for listing on the National Register of Historic Places. The marine event permitting process should consider the impact on any historic places. Most states have historic preservation offices or similar bodies that can be consulted in order to determine the presence or absence of historic properties. Reference (d) contains details on compliance with the NHPA.

- M. Magnuson-Stevens Act Compliance. The Magnuson-Stevens Act is the federal law that governs U.S. marine fisheries management. In 1996 Congress added new habitat conservation provisions in recognition of the importance of fish habitat to productivity and sustainability of U.S. marine fisheries. The Act mandated identification of essential fish habitat for managed species, and also requires measures to conserve and enhance the habitat needed by fish to carry out their life cycles. The Act requires cooperation among NMFS, fishery management councils, fishing participants, federal and state agencies, and others in achieving essential fish habitat protection, conservation and enhancement. A marine event permit should consider the impact on any essential fish habitat. Reference (l) provides guidance on compliance with Magnuson-Stevens Act.
- N. Disapproval for Environmental Reasons.
1. In some cases, the Coast Guard must disapprove an event based on environmental concerns. In those instances, the preferred course of action is for the event sponsor and the Coast Guard to discuss the environmental concerns, and for the sponsor to submit a new application that addresses the specific concerns. Disapproval for Environmental Reasons is considered a “Type III disapproval.” See Chapter 6, paragraph D and Enclosure (6) of this Manual for more details. All disapprovals must be documented as described in Chapter 8 of this Manual. Environmental reasons for disapproval include, but are not limited to:
 - a. Exposing a wildlife or waterfowl refuge, areas frequented by a threatened or endangered species or other environmentally sensitive areas to adverse impacts of noise, turbulence or likelihood of physical injury to wildlife; and
 - b. Violating the Coastal Zone Management Act or some other environmental law.
 2. Particular care must be exercised when deciding whether to disapprove an event for environmental reasons. If an event does not meet the definitions in Reference (b), it is not a marine event and therefore cannot be “disapproved” under the authority of Reference (b). Triggering events that are not themselves marine events cannot be disapproved using marine event permitting authority. In some cases, however, The District Commander or Captain of the Port may prohibit a triggering event in order to protect the navigable waters of the United States and resources therein using authorities granted under 33 U.S.C. § 1221 and related statutes. Such an action would be distinct and separate from the marine event permitting process outlined in this Manual and should be made after consulting with the servicing District Staff Judge Advocate.

O. Conducting the Environmental Review Stage. See Figure: 5-1 for how the Environmental Review Stage flows.

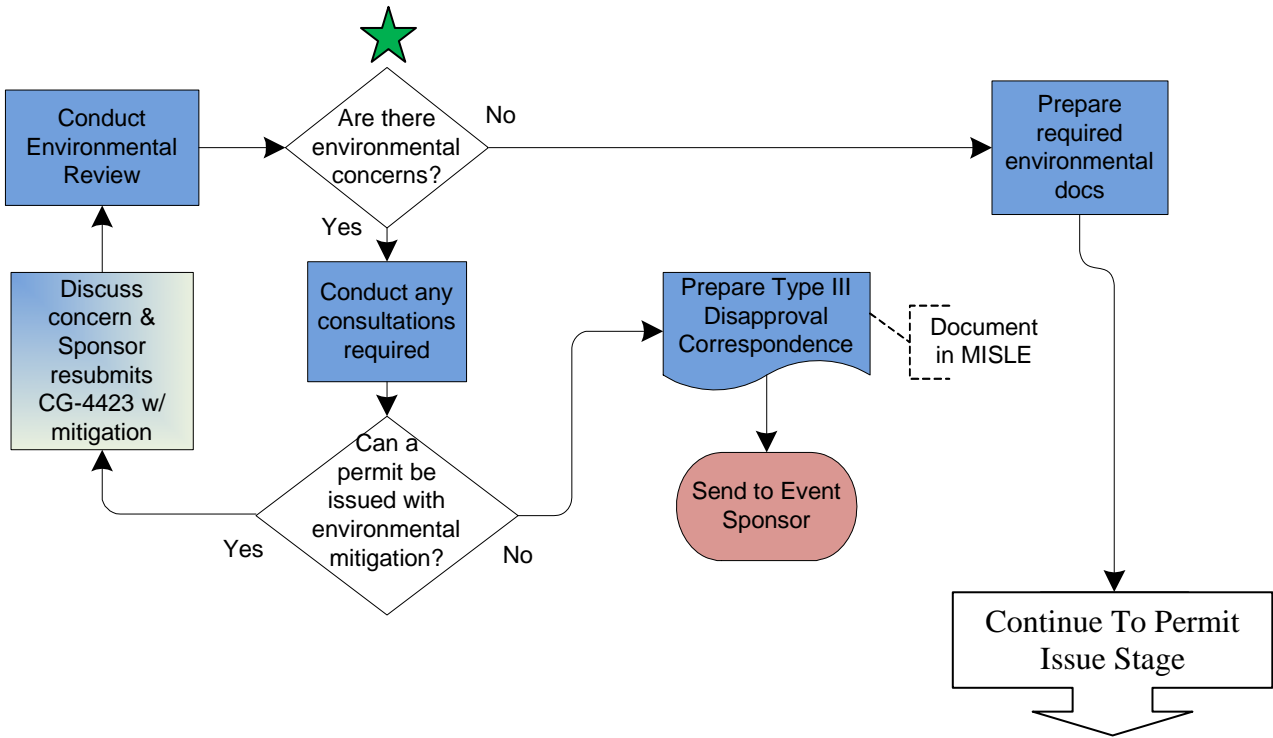


Figure: 5-1 Environmental Review Stage. Once the Coast Guard determines a permit is warranted because the event includes a marine event which is not likely to introduce an extra or unusual hazard that seriously jeopardizes the safety of human life, the Coast Guard, working with the event sponsor examines the impacts of the event on the environment, including marine mammals and endangered species and their critical habitat. Flowchart starts with green shaded star.

CHAPTER 6. PERMIT ISSUANCE STAGE

- A. Coast Guard Response to Permit Applications. The Coast Guard responds to permit applications by:
1. Approving the application and issuing a permit;
 2. Disapproving the application and advising the sponsor of the reason(s);
 3. Returning the application without action, advising the sponsor of the reason(s) a permit is not required;
 4. Requesting specific additional information or changes to the application in order to evaluate the application; or
 5. Forwarding the application to the appropriate State authority for action.
- B. Approvals. The issuance of a Coast Guard permit for a marine event is only an approval that the event may be held; an approval is not an endorsement of the event by the Coast Guard, nor does it guarantee the event will be accident-free. The Designated Officer shall ensure each Coast Guard Permit for Marine Event (CG-4424) contains the language, "By approving this event, the Coast Guard does not assume responsibility for the safety of the participants." In addition, a determination that a permit is not required does not imply the Coast Guard's "approval" of the event.
- C. Regulatory Action. The Coast Guard may promulgate regulations to control the movement of vessels during a triggering event. Regulations which apply to a specific area or waterway and originate at a Sector or District office are generally called "field regulations" (this is to distinguish them from "Headquarters Regulations," which address nationwide policy issues and are managed by a headquarters office). Field regulations may or may not be associated with a Marine Event, and may be temporary, permanent or recurring. Reference (j) provides guidance for creation, approval and timely publication of field regulations in the Federal Register.
1. Types of Field Regulations. Reference (j) describes the different types of field regulations. The most common types for controlling vessel traffic associated with a marine event are Safety Zones and Special Local Regulations:
 - a. A Safety Zone is an exclusion area created under the Port and Waterways Safety Act (33 U.S.C. §1221 et seq.). Generally, Safety Zones prohibit all access to an area unless the vessel has the permission of the Captain of the Port or his designated representative. Authority to create Safety Zones is delegated to the Captain of the Port. The creation of a Safety Zone does not mean that a triggering event is a marine event, nor does it require the Coast Guard to issue a Permit for Marine Event, Form CG-4424.
 - b. Special Local Regulations control vessel traffic for a marine event authorized by Reference (b), under authority granted by Reference (a). Special Local Regulations are only available for Marine Events; to issue a Special Local Regulation, there must be a Coast Guard-issued

a Permit for Marine Event, Form CG-4424, for the event. Generally, Special Local Regulations restrict or place conditions on the movement of vessels through a specified area immediately before, during, and after the marine event. The authority to create Special Local Regulations is delegated to District Commanders, who may, but are not required to, re-delegate their authority to Captains of the Port.

2. Important Field Regulations Considerations. Creating a Field Regulation is a regulatory project and is subject to many statutes, executive orders, and Coast Guard policies. The servicing district Staff Judge Advocate is available to help designated officers navigate the requirements associated with rulemaking. Reference (j) contains information about how to create a field regulation. Below is a summary of some important considerations related to marine events:
 - a. It takes four months from the date the Notice of Proposed Rulemaking is signed before a rule can be “final” in the Federal Register. Final rules must be published at least thirty days before they can be effective. The Notice of Proposed Rulemaking should allow at least thirty days for the public to submit comments on the proposed rule. Department of Homeland Security mail-security, Commandant (CG-0943), and Office of the Federal Register processing add several weeks at each stage.
 - b. Public comments on proposed rules are an essential component of the notice-and-comment rulemaking process established by the Administrative Procedure Act. 5 U.S.C. § 553(c) requires that interested members of the public must be given an opportunity to comment on a proposed rulemaking unless one of the exemptions discussed in Reference (j) applies.
 - c. The most common exemption cited for Field Regulation non-compliance with the requirements of the Administrative Procedure Act is the “Good Cause” exemption. A finding of Good Cause for not publishing an NPRM, or for not delaying the effective date of a rule, must be based on facts specific to the particular event and sufficiently detailed to explain why the exception is necessary. Boilerplate explanations that provide little or no event-specific information must be avoided. Administrative convenience or delay is not a sufficient reason to justify use of the Good Cause exception. See Reference (j), Section 1.B.3 for a discussion on the requirements of the Good Cause exemption.
 - d. Coast Guard Field Regulations make use of a number of exceptions and exemptions to the requirements associated with “regular” rulemaking. If a field regulation is going to have a significant economic (financial) impact, if the environmental impact is significant or controversial, or if the regulation or the event is controversial, contact your servicing district Staff Judge Advocate for assistance in drafting any Field Regulation for the event.
 - e. Publication in the Federal Register means that all persons are provided constructive notice of the regulation. Constructive notice means that everyone is assumed to know about the existence of the regulation. Therefore, not knowing about the regulation is not a defense. If a field regulation is *not* published in the Federal Register, then the Coast Guard must ensure that persons subject to the rule have “actual notice” of the rule before any enforcement action can be taken. The servicing district Staff Judge Advocate can provide guidance on performing actual notice.

- D. Disapproving a Permit Application. When an application is disapproved it shall be returned to the sponsor with the reason for disapproval. All disapprovals must be documented as described in Chapter 8 of this Manual. Some examples are:
1. Type I: Disapproval During Administrative Review.
 - a. Conflicting activities in the area, such as another marine event, range firing, military maneuvers or dredging;
 - b. Previous experience with the sponsoring organization has involved irresponsibility, violations of the terms of approval, or disregard for public safety;
 - c. Ineffective control of the event without adequate corrective measures; or,
 - d. Late submission of an application such that there is insufficient time to complete the reviews required by applicable laws, regulations, and this Manual.
 2. Type II: Disapproval for Safety Reasons.
 - a. Obstructing navigation traffic by blocking a channel or harbor entrance, which creates an unsafe condition;
 - b. Impeding vessel traffic, which creates an unsafe congestion;
 - c. Exposing small craft to hazards due to presence of large ships, tows, etc.;
 - d. Inadequate provisions for safety measures prudent for the nature of the event; or,
 - e. High risk factors render the event (in the opinion of the District Commander or Designated Officer) unsafe.
 3. Type III: Disapproval for Environmental Reasons.
 - a. Exposing a wildlife or waterfowl refuge, areas frequented by a threatened or endangered species, or other environmentally sensitive areas to adverse impacts of noise, turbulence or the likelihood of physical injury to wildlife; or,
 - b. Violating the Coastal Zone Management Act or other environmental laws.
 4. The Coast Guard cannot *disapprove* an Application for Marine Event, Form 4423, or an aspect of an event that is not a marine event. See the definition of marine event in Chapter 1 of this Manual.
- NOTE:** However, as discussed in this Manual, other authorities may exist that allow the Coast Guard to exercise some control over certain elements of the events or activities proposed in an Application for Marine Event, Form 4423.
- E. Reconsideration of Decisions. 33 CFR § 100.30 states that the District Commander has the final authority to approve or disapprove applications for marine events. Event sponsors may therefore

request reconsideration of decisions made by Coast Guard Commanding Officers or other Designated Officers to the appropriate District Commander. The District Commander is the final decision authority.

- F. Notices and Broadcasts. Units shall disseminate information regarding all marine events. Several tools are available to Designated Officers including: Local and Broadcast Notices to Mariners, Homeport, the Federal Register, and/or Marine Safety Information Broadcasts. However, because the Coast Guard has an international treaty and statutory responsibility to disseminate important safety information regarding the status of all navigable waters of the U.S., Local Notice to Mariners and Broadcast Notice to Mariners shall be considered the primary mechanism for disseminating information, and the others may be considered as secondary information conduits. Units should develop a consistent outreach strategy to ensure the public is aware of permitted events, and are encouraged to utilize secondary communication strategies in addition to Local and Broadcast Notices to Mariners. In addition, units should consider using the same tools to promote public awareness of triggering events and other marine events that may impact navigation or marine safety, but that do not require Coast Guard permits.
- G. Conducting the Permit Issuance Stage. See Figure: 6-1 for an example of how the Permit Issuance Stage flows.

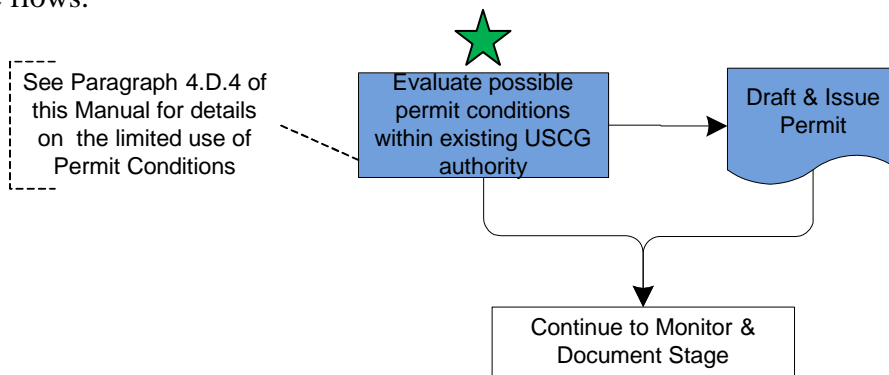


Figure: 6-1 Permit Issuance Stage. The Coast Guard prepares the permit, occasionally including limitations or conditions on the event. The language in the permit must be carefully crafted to explain the sponsor’s responsibilities. See Chapter 4 of this Manual for information on allowable permit conditions. Flowchart starts with green shaded star.

CHAPTER 7. MONITORING STAGE

- A. Patrols. The District Commander, Captain of the Port or other Designated Officer may assign a Coast Guard regatta patrol to monitor the marine event. A patrol should be assigned if special local regulations are issued. The primary responsibility to protect participants and spectators from the hazards of the event (including other participants) rests with the sponsoring organization. Coast Guard vessels, Auxiliary facilities, or other governmental agency assets may be used to patrol events. All vessels engaged in regatta patrol shall display proper identifying markings and flags. District Commanders or Designated Officers are responsible for ensuring the proper coordination of regatta patrol assets. Such coordination, however, may not always require the presence of on-scene Coast Guard vessels. The U.S. Coast Guard Maritime Law Enforcement Manual (MLEM), COMDTINST M16247.1 (series), provides detailed guidance for patrols.
- B. Designation of Patrol Commanders (PATCOM). The marine event PATCOM is a commissioned, warrant, or petty officer of the Coast Guard designated by the respective Coast Guard Sector – Captain of the Port to patrol marine events and enforce regulations. In accordance with the Marine Safety Manual, Volume VI, COMDINST M16000.11 (series), the primary responsibility of the PATCOM is to control transient craft to ensure their protection, eliminate safety hazards in the event area, and enforce special local regulations. A sample Patrol Commander Designation Letter is included in Enclosure (8) of this Manual; however, units may choose another mechanism to designate a PATCOM.
- C. Use of Coast Guard Auxiliary. The Coast Guard Auxiliary can be a valuable, trusted resource to assist with marine event PATCOM responsibilities. PATCOMs should consider using the Auxiliary to the maximum legal extent possible to control spectator craft, maintain picket lines, and handle routine communications with vessel traffic. Instructions for the use of Auxiliarists on regatta patrols are found in the Auxiliary Operations Policy Manual, COMDTINST M16798.3 (series).
- D. Use of Other Governmental Agencies. Nothing in this Manual is intended to restrict the District Commander or Designated Officer’s ability to leverage partnerships with other governmental agencies, such as harbor patrols, marine police, fire departments, etc., to patrol marine events to the extent allowed by law or authorized in policy.
- E. Actions of the PATCOM.
1. The PATCOM should communicate with the event sponsor prior to and, if needed, during the event. Enclosure (9) of this Manual includes a sample Pre-Event Checklist that may aid the PATCOM. Units should feel free to tailor the example in Enclosure (9) to meet their needs, as desired. The PATCOM should not become involved in the details of running the marine event, and should decline requests of event sponsors to assist with organization and coordination of the event. However, it is often difficult to differentiate between a problem caused by “poor” sponsor performance, and a legitimate and unforeseen safety or regulatory concern. PATCOMs shall use their training and experience to determine the appropriate level of Coast Guard involvement.

2. The PATCOM must be aware of any agreements or provisions made during the permitting process with other interested parties besides the event sponsor (i.e., protest or similar groups). The PATCOM should ensure protest activities are carried out within the confines of these agreements. The PATCOM shall use their best judgment to conduct a neutral patrol of the event(s) and should not harass, board, or alter agreed upon safety plans for lawful protest activities unless the PATCOM becomes aware of a violation of law or regulation, or observes actual safety violations on the part of protestors or other lawfully gathered craft.
- F. Use of the Incident Command System (ICS). Depending on the complexity and risks associated with the marine event, the Designated Officer and PATCOM may wish to prepare an Incident Action Plan (IAP) and utilize ICS for planning and managing the event. Use of ICS is encouraged. IAPs are an outstanding mechanism for describing what safety and/or security was performed as part of the permitted event, as well as what actions were taken by the Coast Guard and other agencies outside of the permitted part of the operation. Furthermore, utilizing ICS for these operations will assist in continual improvement of mission performance.
- G. Grounds for Coast Guard Cancellation/Postponement of Event. It may be necessary to postpone or cancel the marine event if state or local water patrol officers fail to report for duty, or, if in the judgment of PATCOM, their departure before completion of the event will jeopardize safe conduct and control of the remainder of the marine event. The event sponsor is responsible for having sufficient resources in place to provide for the safety of the event participants. If the aggregate resources are insufficient to provide for the overall safety of the event, to the participants, spectators, and the public, the PATCOM should postpone further activities immediately. The sponsor must either immediately correct the problem or halt the marine event until the concerns are addressed. After conferring with the sponsor, race officials, state and/or local water patrols, and the COTP, PATCOM may allow the marine event to continue if all concerns have been adequately addressed. Examples of loss of control or deficient sponsor performance are:
1. Widespread drunkenness among the participants (including spectators), resulting in unruly and potentially unsafe conduct;
 2. Inclement weather that is not addressed, or is ignored, by the sponsor;
 3. Intrusion or interference by commercial or recreational vessels;
 4. Unauthorized swimming or other water activity in the regulated area;
 5. Violations of permit conditions;
 6. Creation of unusual hazards to navigation by accumulations of spectator craft outside the regulated area;
 7. Blatantly reckless or grossly negligent operation of a participant craft that creates an unusual risk to other participants or spectators; or,
 8. Blatant disorganization and inability by the sponsor to coordinate the marine event as explained in their application and Coast Guard-approved permit.

- H. Violations. Civil penalties can be incurred for both individuals and organizations that violate the regulations found in Reference (b), which are promulgated under the authority of Reference (a). See 33 USC § 1236. The maximum penalty amounts for violations are listed in 33 CFR Part 27. In addition, a licensed officer that commits an act of incompetence relating to the operation of the vessel, or commits an act of misconduct when acting under the authority of that license, may be liable to suspension or revocation of his or her merchant mariner's license. Enforcement of laws and treaties may also be accomplished through vessel boardings and enforcement activities outlined in the U.S. Coast Guard Maritime Law Enforcement Manual (MLEM), COMDTINST M16247.1 (series).

CHAPTER 8. DOCUMENTING MARINE EVENTS

- A. General. It is essential to document all aspects of the permit process. Doing so creates an organized and well-documented record that may be necessary for future review, particularly in situations where a permit application has been denied. It is important that the documentation is organized so data may be easily retrieved for review and analysis at all organizational levels.
- B. Mandatory Use of MISLE. It is critical that all marine event permitting activities be documented using the Marine Information for Safety and Law Enforcement (MISLE) enterprise database. All permit applications received must be entered into MISLE as a “Waterway Operational Control” (or similar activity in future versions of MISLE), along with the final action of the Designated Official on the Application for Approval of Marine Event, Form CG-4423 (i.e., received, approved, denied, special local regulations issued, resource sorties, etc.).
- C. Importance of Complete Record. In order to withstand a legal challenge, it is imperative that a complete record of decisions be maintained. This is particularly true when disapproving applications. Care must be taken to fully document evidence for disapprovals and any alternatives that were considered. The record must also include clear and convincing documentation that explains the environmental review undertaken by the Coast Guard and any resulting decisions. This should be accomplished in a MISLE “Waterway Operational Control” activity, or a successor activity in future versions of MISLE.
- D. Local Databases. Local databases for tracking marine events, other than the standardized tools designed into the Marine Event Channel of the Homeport web portal, are not authorized as a primary source for maintaining marine event permitting records as they provide no visibility beyond the local level and prevent the Commandant from assessing the effectiveness and impact of the program. However, in some cases local databases/spreadsheets are useful in collecting and disseminating information on marine events to local authorities and to provide unit briefings. In these cases, locally maintained databases/spreadsheets are authorized but may not replace MISLE.

CHAPTER 9. EVALUATION AND CONTINUOUS IMPROVEMENT

- A. General. Evaluation is a vital step in any process. It creates a cycle of continuous review, and provides information necessary for future improvement. Evaluation of the program must be completed at both the execution and programmatic levels. Lessons learned from previous events should improve risk-informed decision-making and help determine future requirements for similar events. Collecting and using evaluation data is a critical part of that cycle in order for units to become better at receiving, processing, and issuing permits for and monitoring marine events.
- B. Patrol Commander Feedback. For each event designated, the assigned PATCOM shall complete an After-Action Report (AAR) and provide it to the Captain of the Port *no later than one week following the conclusion of the event*. Enclosure (10) is a sample Patrol Commander After-Action Report. This is only a sample and units may develop other mechanisms, including MISLE entries, to achieve feedback from PATCOM consistent with the purpose of this paragraph. As an alternative, the use of the Incident Command System (ICS) and the creation of an Incident Action Plan is highly encouraged. If using ICS, specific ICS forms (such as ICS 214-CG) may be substituted for the AAR called for in this Manual, however, all related feedback (including ICS forms) should be retained and used for continuous improvement.
- C. Modifications to Forms. No local modifications to the Application for Approval of Marine Event, Form CG-4423, or Permit for Marine Event, Form CG-4424, are authorized. Unit feedback on the design or make-up of these forms should be forwarded to the Director of Marine Transportation Systems (Commandant, CG-5PW). Forms are reviewed and approved every three years by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. All input received from field units will be considered when renewing or updating forms for OMB approval.
- D. Modifications to Commandant Instructions. In accordance with The Coast Guard Directives System, COMDTINST M5215.6 (series), this Manual will be reviewed for content every two years. Unit feedback on the design, make-up, or content of this Manual is welcomed, and should be forwarded to the Director of Marine Transportation Systems (Commandant, COMDT CG-5PW) via the chain of command.

CHAPTER 10. MARINE EVENTS OF NATIONAL SIGNIFICANCE

A. General.

1. 46 CFR § 26.03-8 and References (n) and (o) provide guidance on Marine Events of National Significance (MENS). MENS applications are evaluated and designated by the Office of Commercial Vessel Compliance (CG-CVC) at Coast Guard Headquarters. A MENS designation is not an approval to hold a marine event, nor does it replace the process outlined in this Manual. A MENS designation is a vessel inspection-related action that allows participating vessels to “engage in excursions while carrying passengers-for-hire for the duration of the event.” In other words, the MENS designation allows some flexibility from traditional inspection guidelines for participating vessels wishing to carry passengers.
2. Conversely, during a MENS event, compliance with the Marine Transportation Security Act (MTSA) is not suspended. In fact, a MENS may result in a higher level of security risk to manage within the port than during a non-MENS period. Because of the increased security risk, vessels and facilities that do not routinely operate under an approved security plan may be required to maintain an appropriate level of security for the MENS. Reference (o) provides additional details on security during MENS events.

- B. Permits for Marine Event during MENS events. For the purposes of designation as a MENS, a group of events in several ports are considered as one “event.” However, for the purposes of the Coast Guard’s responsibility under Reference (b) and the marine event permitting process, a MENS is best considered as a series of related events with common sponsorship and participants. In other words, the MENS should be considered the “triggering event” under the definitions in paragraph 1.B.14 of this Manual. Permits must be issued for each of the individual marine events that will occur under the MENS designation.

EXAMPLE: The Tall Ships of America is holding a sailing regatta that spans the East Coast. The participating vessels will be arriving and holding vessel parades and shows in Savannah, Hampton Roads, New York, and Boston. Commandant (CG-CVC) determined that the tall ships event qualifies as a MENS and designated it as such. The event sponsor must still submit an Application for Approval of Marine Event, Form CG-4423, under the provisions of Reference (b) for the events in each port. The Coast Guard would expect Tall Ships of America or a local partner/event coordinator to submit an Application for Approval of Marine Event, Form CG-4423, to each Captain of the Port (Savannah, Norfolk, New York, and Boston). Because of the unique geography and operating situation in each port, each of the applications would be evaluated individually under the process outlined in this Manual. Paragraph C of this Chapter discusses how the evaluations for the series of events can be coordinated at the district or area level.

- C. Coordination of MENS by the District or Area. When a MENS spans several Captain of the Port zones and/or districts, the involved area or district(s) should assign a coordinator to ensure consistency of Coast Guard permitting action for all the marine events associated with the MENS. This does not alleviate the responsibility to consider each marine event under the process outlined in this Manual.

- D. NEPA for MENS. The NEPA analysis conducted during the designation of a MENS only considers the Coast Guard action associated with increasing the flexibility of participating vessels to carry passengers and is usually categorically excluded. Because a MENS designation does not authorize the event sponsor to actually hold the event, the NEPA evaluation conducted during the designation does not consider the potential environmental impacts of the entirety of the event. Therefore, a thorough NEPA analysis must be conducted for each associated Permit for Marine Event, Form CG-4424, issued. In order to eliminate redundancy, these NEPA analyses may be combined or consolidated into one larger effort, however, the analysis should be part of the marine event permitting process, not part of the MENS designation process. The involved Coast Guard area or district(s) coordinator(s) may choose to spearhead this effort.
- E. Disapproval of Marine Events Associated with MENS. The MENS designation does not guarantee that the associated marine events will be approved under Reference (b). Marine events associated with MENS must still be evaluated in accordance with this Manual. It is conceivable that certain marine events may be disapproved for any of the reasons outlined in Chapter 6.D. of this Manual. Because of the nature of a MENS, every effort should be undertaken to work with the event sponsor to find acceptable alternatives that will lead to approval of the permit application. However, safety, security, and environmental stewardship must never be compromised in order to approve a marine event.
- F. Permit for Marine Event(s) as Last Action. Approval of an Application for Approval Marine Event, Form CG-4423, is a powerful authority in the Captain of the Port or District Commander's tool box to prevent unsafe activities from occurring in association with a MENS. Therefore, it is appropriate to withhold the issuance of the Permit for Marine Event, Form(s) CG-4424, associated with a MENS until the event sponsor has sufficiently proven that the event(s) will be safe, secure, and environmentally sound. This may include, but is not limited to:
1. Designation of the MENS by Commandant (CG-CVC);
 2. Demonstration of compliance with Reference (n);
 3. Demonstration of compliance with the appropriate security measures identified by the cognizant Federal Maritime Security Coordinator or their designee, including compliance with Reference (o); and
 4. Demonstration that the sponsors and/or participating craft have received all appropriate State or Local permits.

NOTE: Only after all other obligations have been fulfilled shall the Permit for Marine Event, Form CG-4424, be approved.

Sample Delegation of Authority Letter

U.S. Department of
Homeland Security

United States
Coast Guard



Commander, X District
United States Coast Guard

Street Address
City, State, Zip Code
Phone:
Fax:
Email:

16751

MEMORANDUM

From: J. Q. Coastie, RADM
[X District]

Reply to
Attn of:

To: Captain of the Port

Subj: DELEGATION OF AUTHORITY FOR PERMITTING REGATTAS & MARINE
PARADES

Ref: (a) 33 United States Code, Section 1233
(b) 33 CFR Part 100, Safety of Life on Navigable Waters
(c) Permitting of Regattas & Marine Parades, COMDTINST M16751.3 (series)

1. You are hereby delegated the authority to approve, disapprove, and take other action as you deem appropriate on regatta and marine parade permit requests submitted for marine events occurring within your Captain of the Port Zone. In doing so, you shall be guided by References (a) through (c) and all other applicable laws and regulations.

2. When exercising this authority, you may further designate in writing persons subordinate to you whom, in your opinion, possess the requisite knowledge, skills, ability and familiarity with References (a) through (c) to perform this function on your behalf. However, you alone are delegated the authority to disapprove an Application for Approval of Marine Event, Form CG-4423.

3. You shall inform me as appropriate of cases with special issues or high levels of public or flag visibility.

#

Sample Designation as Marine Event Reviewer Letter

U.S. Department of
Homeland Security

United States
Coast Guard



Commander, Sector X
United States Coast Guard

Street Address
City, State, Zip Code
Phone:
Fax:
Email:

16751

MEMORANDUM

From: J. Q. Coastie, CAPT
[XXXXXXXXXXXXX]

Reply to
Attn of:

To: X.X. Last Name, Rate/Rank

Subj: DESIGNATION AS MARINE EVENT REVIEWER

Ref: (d) 33 United States Code, Section 1233
(e) 33 CFR Part 100, Safety of Life on Navigable Waters
(f) Permitting of Regattas & Marine Parades, COMDTINST M16751.3 (series)
(g) Waterways Management Representative Performance Qualification Standard Workbook

1. You are hereby designated as a Marine Event Reviewer for Sector X. As such, you have demonstrated the requisite knowledge, skills, ability and familiarity with References (a) through (d) to perform this function on my behalf.
2. You are authorized to review, approve, determine that no Coast Guard permit is required, and sign letters to those effects on any application for marine event submitted for events occurring within this Captain of the Port Zone. In doing so, you shall be guided by References (a) through (c) and all other applicable laws and regulations.
3. While you may determine that a proposed event does not require a Coast Guard permit, you may not, on your own authority, *disapprove* an event. Events which may require disapproval should be immediately brought to my attention along with your recommendation.
4. You shall immediately inform me as appropriate of cases with special issues or high levels of public or flag visibility.

#

ACKNOWLEDGEMENT ENDORSEMENT

From: X.X. Last Name, Rate/Rank
[XXXXXXXXXXXXX]

To: J.Q. Coastie, CAPT

1. I understand and accept the duties associated with the above designation

#

Sample Letter Forwarding to State Boating Law Administrator

U.S. Department of
Homeland Security

United States
Coast Guard



Commander, X Sector
United States Coast Guard

Street Address
City, State, Zip Code
Phone:
Fax:
Email:

16750
MMDDYYYY

[State Boating Law Administrator]

Street Address
City, State, Zip Code

Dear [XXXXXXX]

The enclosed Application for Approval of Marine Event, Form CG-4423, is forwarded for your action. In order to require a Coast Guard Permit for Marine Event, Form CG-4424, issued under the authority of 33 U.S.C. 1233 and 33 CFR Part 100, the event must meet specific criteria. Because the event is not likely to introduce extra or unusual hazards that seriously jeopardize the safety of human life on navigable waters, it does not require a Coast Guard permit. Under the guidelines established in the Joint Coast Guard/State Cooperative Agreement on boating safety, it is being forwarded to you for information purposes and so you may take any action(s) you deem appropriate.

If you have any further questions concerning this event, please contact [POC name and phone].

Sincerely,

[Signature]

Encl: (1) Application for Approval of Marine Event, Form CG-4423
(2) Coast Guard No-permit letter 16750 of DDMMYY

Copy: [Event Sponsor]

Sample Letter of “No Action on Permit Application” to Event Sponsor

U.S. Department of
Homeland Security

United States
Coast Guard



Commander, X Sector
United States Coast Guard

Street Address
City, State, Zip Code
Phone:
Fax:
Email:

16750
MMDDYYYY

Name of Sponsor,
Organization
Street Address
City, State, Zip Code

Dear Mr./Ms. [XXXXXXX]

I have received your Application for Approval of Marine Event, Form CG-4423, dated [mmddyyyy], in which you requested approval for the [name of event, location, mmddyyyy]. I have reviewed your application and determined that the proposed event does not require a Coast Guard Marine Even Permit, as outlined in 33 CFR Part 100, in that the event does not introduce any extra or unusual hazards that would jeopardize the safety of human life on the navigable waters or the U.S. **For this reason, a Coast Guard Permit for Marine Event, Form CG-4424, is not required.**

You are reminded that, while no Coast Guard permit is required, you must comply with all existing Federal, State, and local laws and other requirements that may impact your ability to hold your event as proposed. You should take appropriate action to ensure compliance with all such requirements prior to holding your event. Although no Coast Guard permit will be issued at this time, it is your responsibility to contact this office if there are any changes to the event, including the number of participants and/or expected spectators, location, or any other significant changes that may necessitate reconsideration as to whether a permit is required.

I sincerely appreciate your proactive effort in bringing this marine event to my attention.. Because of the dynamic nature of the waterway, boating, and maritime activities, the Coast Guard carefully considers the totality of the risks associated with each event on a case-by-case basis when determining whether a permit is needed. Although a Coast Guard Permit for Marine Event, Form CG-4424, is not required for this occasion, you should continue to submit an Application for Approval of Marine Event, Form CG-4423, for this, and any similar events, you may sponsor in the future.

Furthermore, nothing in this determination is intended to restrict the Coast Guard's ability to take action authorized under the Ports and Waterways Safety Act, the Magnusson Act, or other authorities to ensure the safety of vessels and waterfront facilities, and the protection of the navigable waters and the resources therein. Such actions could include promulgation of Regulated Navigation Areas or Limited Access Areas, broadcasting safety notices or disseminating safety flyers, or other actions taken under the authorities granted the United States Coast Guard.

ENCLOSURE (4) to COMDTINST M16751.3

The decision that your proposed event does not require a Coast Guard permit in no way implies that the event is without risk or deemed completely safe, nor does it imply that the Coast Guard has “approved” the event. As the event sponsor, you are still responsible for the overall safety of the event and obtaining any appropriate permits from other Federal, State, or local authorities.

Please contact **[POC name and phone]** if you have any questions.

Sincerely,

[Signature]

Chief, Waterways Management Division

U.S. Coast Guard

By direction

Copy: Coast Guard Station **[XXXXXX]**
State Boating Law Administrator

[Any other Federal/State/local partner agency]

Sample Letter Forwarding to “No Action on Permit Application” to Environmental Agencies

U.S. Department of
Homeland Security

United States
Coast Guard



Commander, X Sector
United States Coast Guard

Street Address
City, State, Zip Code
Phone:
Fax:
Email:

16750
MMDDYYYY

[Environmental Agency]

Street Address
City, State, Zip Code

Dear [XXXXXX]

The enclosed Application for Approval of Marine Event, Form CG-4423, is forwarded for your information. The Coast Guard has determined that the applicant does not require a Coast Guard Marine Event Permit, Form CG-4424, issued under the authority of 33 U.S.C. 1233 and 33 CFR Part 100. Because your agency may have an interest in the details of the application, I am forwarding it to you for information purposes and so you may take any action(s) you deem appropriate.

This determination does not restrict the Coast Guard’s general ability, separate from any marine event permit, to take action authorized under the Ports and Waterways Safety Act, the Magnusson Act, or other authorities to ensure the safety of vessels and waterfront facilities and the protection of the navigable waters. Such action may possibly include promulgation of Regulated Navigation Areas or Limited Access Areas, the making of broadcast or print safety notices, or other actions taken under the authorities granted the Coast Guard.

The Coast Guard remains committed to the highest level of environmental compliance and will conduct the requisite environmental review for any action the Coast Guard undertakes.

The enclosed Application for Approval of Marine Event, Form CG-4423, has also been forwarded to the appropriate local and state agencies for their review as well.

If you have any further questions concerning this event, please contact [POC name and phone].

Sincerely,

[Signature]

Encl: (1) Application for Approval of Marine Event, Form CG-4423
(2) Coast Guard Letter of No Action on Marine Permit

Sample Disapproval Letter

U.S. Department of
Homeland Security

United States
Coast Guard



Commander, X Sector
United States Coast Guard

Street Address
City, State, Zip Code
Phone:
Fax:
Email:

16750
MMDDYYYY

[Name of Sponsor]
Organization
Street Address
City, State, Zip Code

Dear [XXXXXXX]

I have received your Application for Approval of Marine Event, Form CG-4423, dated [mmddyyyy], in which you requested approval for the [name of event, location, mmddyyyy]. Based on an evaluation of your application, your event is likely to introduce extra or unusual hazards that seriously jeopardize the safety of human life on the navigable waters of the United States. For this reason, a **Coast Guard Permit for Marine Event is required.**

Unfortunately, I cannot grant approval at this time and your proposed event is **disapproved**. This is because [explain reasons for disapproval].

It may still be possible to gain Coast Guard approval for your event by modifying elements of your proposal and resubmitting your application. If you wish to explore this option, I encourage you to contact my staff immediately to discuss ways to mitigate my concerns. You should be aware that the timelines in 33 CFR 100.15(c) still apply and my office requires several weeks to evaluate all aspects of your request.

Furthermore, you should note that any individual or organization that violates any provisions of the regulations in regard to regattas or marine events is subject to the penalties provided in Section 1236 of Title 33, United States Code.

You may request reconsideration of this decision by the District Commander for the [insert **District**] Coast Guard District in accordance with 33 CFR 100.30.

Please contact [POC name and phone] if you have any questions.

Sincerely,

[Signature]
Captain, U. S. Coast Guard
Captain of the Port

Sample Letter of Forwarding to Appropriate Authorities for Environmental Review

U.S. Department of
Homeland Security

United States
Coast Guard



Commander, X Sector
United States Coast Guard

Street Address
City, State, Zip Code
Phone:
Fax:
Email:

16750
MMDDYYYY

[Environmental Agency]

Street Address
City, State, Zip Code

Dear [XXXXXX]

The enclosed Application for Approval of Marine Event, Form CG-4423, is forwarded for your review. The Coast Guard has conducted a preliminary evaluation of the event and determined that the proposed regatta(s) or marine parade(s) associated with this event is likely to introduce hazards that seriously jeopardize the safety of human life on the navigable waters of the United States and therefore require(s) a Coast Guard Permit for Marine Event, Form CG-4424, issued under the authority of 33 U.S.C. 1233.

The Coast Guard intends to issue a permit for the regatta or marine parade associated with this event pending the review of any environmental concerns associated with the portions of the event over which the Coast Guard has authority to permit. I request your assistance and input in identifying these environmental concerns. You should note, however, that in many cases, the Coast Guard does not permit the entire event, only the regattas or marine parades associated with the triggering event. We are therefore soliciting environmental concerns associated with *only* the portions of the event over which we have authority to permit under 33 U.S.C. 1233. Other Federal, State, and local agencies may contact you over other portions of this event.

My project officer for this event is [POC name and phone]. I greatly appreciate any assistance you can provide in this important matter.

Sincerely,

[Signature]

Chief, Waterways Management Division
U.S. Coast Guard
By direction

Enclosure

Sample Patrol Commander Designation Letter

U.S. Department of
Homeland Security

United States
Coast Guard



Commander, X Sector
United States Coast Guard

Street Address
City, State, Zip Code
Phone:
Fax:
Email:

16751

MEMORANDUM

From: J. Q. Coastie, CAPT
[XXXXXXXXXXXX]

Reply to
Attn of:

To: Officer in Charge, Coast Guard Station [XXXXXXXXXXXX]

Subj: DESIGNATION OF PATROL COMMANDER FOR [name of marine event]

1. You are designated Patrol Commander for the above named marine event. Attached are copies of the sponsor's [**attach all that apply: application, permit, chart/graph**].
2. In preparation for your duties, review all applicable directives, including 33 C.F.R. 100; the Auxiliary Operations Policy Manual, COMDTINST M16798.3E (series) [**if Auxiliary resources will be used**]; and Permitting of Regattas and Marine Parades, COMDTINST M16751.3 (series).
3. Contact the Event Sponsor/Chairperson no less than two weeks prior to the event and arrange for such meetings and/or conferences as you consider necessary.
 - a. Ensure that the event sponsor understands their responsibilities for ensuring safety as outlined in their approved Application for Marine Event Permit, Form CG-4423.
 - b. Ascertain that a workable procedure has been established to account for and identify each participant at the beginning and end of the event.
 - c. Agree on emergency visual signals to be used in case of an accident.
 - d. Ensure that the sponsor is aware of the Coast Guard's authority to: postpone, temporarily cease, or terminate the event due to violations of the event sponsor's safety plans or conditions, loss of control over the participants or spectators, or any other dangerous circumstances. At the same time, ensure that the sponsor is aware of their complete responsibility for the conduct of the event, including the placement and retrieval of course markers, the removal of obstructions or menaces to navigation, and the cancellation of the event when existing or forecasted inclement weather conditions develop.
4. Before proceeding on patrol, become informed of existing and forecasted weather conditions. Determine what medical and transportation facilities are available in case of injuries.

ENCLOSURE (8) to COMDTINST M16751.3

5. Conduct spot checks to ensure pre-event inspection of entrants by the event sponsor has been completed when they are required and determine whether special equipment requirements have been met.
6. Ensure that the sponsor provides any patrol resources required in the permit.
7. Enforce special local regulations and/or safety zones in the area. Maintain vigilance and exercise your authority as a law enforcement officer to eliminate any reckless or negligent operations. If an event participant is engaged in reckless or negligent operations, the event sponsor or the race committee chairman is the responsible party charged with the lead role in either correcting the condition or disqualifying the participant. However, if circumstances are such that immediate action must be taken, you may act as necessary so long as those actions comply with existing authorities.
8. Normally, the race committee chairman has the lead role to correct any violations of the event sponsor's safety plan or conditions, or to disqualify any participants. However, if the PATCOM and those authorized to act under his or her command observe safety violations, assets are authorized to intervene as necessary under existing Coast Guard authorities.
9. Arrange for any Coast Guard Auxiliary resources as you deem necessary. PATCOM should remain cognizant of the limited authority of members of the Coast Guard Auxiliary assisting in the patrol and utilize them appropriately.
10. Instruct patrol craft to carry out their missions with firmness, diplomacy, and tact.
11. Ensure that patrol craft display identification signs, fly proper flags, and are using only authorized movement control signs.
12. Enforce circuit discipline on all radio channels used by the patrol.
13. Submit a PATCOM After Action Report in accordance with Permitting Regattas and Marine Parades, COMDTINST M16751.3 (series).

#

Sample Patrol Commander Pre-Event Checklist

Name of Event: _____

Sponsor: _____ Location: _____

Date of Event: _____

YES / NO

- _____ Event Sponsor contacted prior to event and the following items are discussed:
 - Safety provisions contained within the event sponsor's safety plan (as outlined in their marine event permit application), conditions (if applicable), as well as any existing laws or regulations (SLR, RNA, limited access areas, PWSA, Magnuson, etc).
 - Workable procedures to account for ALL event participants;
 - Emergency visual signals are agreed upon;
 - CG's authority to postpone, temporarily stop, or cancel event;
- _____ Copies of Permit for Marine Event, Form CG-4424, or No-permit letter
(print multiple copies to hand out)
- _____ Copies of Special Local Regulations/Temporary Final Rule.
(print multiple copies to hand out)
- _____ Copies of Broadcast Notice to Mariners.
(print multiple copies to hand out)
- _____ Safety brief conducted prior to event.
- _____ Adequate visual emergency signals communicated to participants.
- _____ Sponsor's safety craft adequate in number and identifiable.
- _____ Medical and transportation facilities are available in marine event area.
- _____ Coast Guard Auxiliary vessels assigned, as appropriate.
- _____ Communications frequencies established.
- _____ Weather forecasts and tides and currents applicable to event area reviewed and taken into consideration.
- _____ Local law enforcement and/or Marine Police available (if needed)
- _____ Assigned CG Patrol vessels have received their assignments.

Notes: _____

Sample Patrol Commander After Action Report

EVENT NAME: _____ PATROL DATE: _____

- 1. Number of participating vessels / craft / swimmers: _____
- 2. Estimated number of spectator craft: _____
- 3. Vessels not observing permit / regulation requirements:
List vessel name, documentation #, owner / operator, and scenario description for each involved.
- 4. Did the sponsor provide the support craft listed on their application? YES NO
- 5. Was the event conducted as described on the sponsor’s application? YES NO (If no, explain under remarks.)
- 6. Did the sponsor contact you prior to the event (if required by their permit)? YES NO

7. PATCOM: USCG CG AUX OGA

Patrol craft on scene: _____ _____ _____

Hours (total for event): _____ _____ _____

8. Was this patrol required? Recommendations for future patrols:

9. Other remarks:

Name, title, & Unit

Date