



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
441 G STREET, NW
WASHINGTON, DC 20314-1000

SEP 27 2017

CECW-CO

MEMORANDUM FOR COMMANDERS, SOUTH ATLANTIC DIVISION AND NORTH ATLANTIC DIVISION

SUBJECT: Implementation Guidance for Section 1149 of the Water Resources Development Act of 2016 (WRDA 2016), No Wake Zones in Navigation Channels

1. Section 1149 of the Water Resources Development Act of 2016 (WRDA 2016) provides that upon the request of a state or local official, the Secretary, in consultation with the Commandant of the Coast Guard, shall promptly identify and, subject to considerations set forth therein, allow the implementation of measures for addressing navigation safety hazards in a federally marked or maintained channel that is part of the Atlantic Intracoastal Waterway (AIWW) and adjacent to a marina resulting from wakes created by recreational vessels, while maintaining the navigability of the channel. Section 1149 is enclosed.

2. For the purposes of implementing Section 1149 of WRDA 2016, the following definitions apply:

a. Marina. The term "marina" means any publicly or privately owned dock, basin, or storage facility that has current and valid Department of the Army permits and:

(1) accommodates in-water docking space for more than ten recreational and/or commercial vessels, and

(2) provides commercial services such as docking space leasing, dry stack storage, sale of fuel and supplies, or haul-out facilities.

b. Navigable capacity. The term "navigable capacity" means the ability of the channel to accommodate the movement of waterborne commerce and the public rights of navigation for which the federal channel was designed and authorized.

c. Navigation safety hazard. For the purpose of this document, the term "navigation safety hazard" means those hazards that are a direct result of excessive wakes caused by recreational vessels in a covered navigation channel (see Section 3 "Applicability").

d. Recreational vessel. The term "recreational vessel" means a vessel as defined by 46 U.S.C. 2101 (25).

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3. This guidance is applicable to all federally marked or federally maintained navigation channels that are part of the Atlantic Intracoastal Waterway and are adjacent to a marina.

4. The written request by a state or local official shall include the following:

a. Verification that the proposed No Wake Zone meets all of the applicable considerations specified in this guidance including all applicable federal and state laws and local requirements for marinas and waterways.

b. A channel map with the coordinates of the proposed No Wake Zone, including the marina footprint.

c. Documentation that the proposed No Wake Zone involves the minimum area necessary to address the navigation safety hazard.

d. Documented evidence such as records of citations, documented damage, safety assessment evaluations, accident reports, and other similar documentation by state and local law enforcement officers of:

(1) the specific navigation safety hazards in the covered navigation channel, and that

(2) the hazards are adjacent to a marina as set forth herein; and

(3) the hazards are a direct result of excessive wakes from recreational vessels.

e. Documentation that all other reasonable measures have been evaluated and taken such that a No Wake Zone is the only measure available to address the navigation safety hazard.

5. The district engineer will evaluate the request and ensure the request contains the required content. If not, the district engineer will return the request to the state or local official for additional information and/or an explanation regarding the deficiency of the request. If the district engineer determines the written request to be complete, the district will then accomplish the following in no more than 75 days:

a. Determine if safety concerns exist in the covered navigation channel because of recreational vessels and if the No Wake Zone will remedy these concerns without significant impacts to the navigable capacity of the channel.

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- b. Seek recommendations of the Coast Guard to ensure safety of vessels, passengers, and crews aboard such vessels.
 - c. Seek recommendations of state and local agencies' law enforcement officials ultimately responsible for enforcing a proposed No Wake Zone.
 - d. Issue a public notice and seek public input on the proposed No Wake Zone.
 - e. Prepare a recommendation package as outlined in paragraph 6 below.
6. A No Wake Zone decision package will be developed by the Corps of Engineers District with the responsibility for the applicable section of the AIWW, and include the district engineer's determination, the state or local official's No Wake Zone request, a summary of the Coast Guard, state, local, and public's comments and recommendations, and the district commander's recommendation. The district will submit the No Wake Zone recommendation package through the MSC to HQUSACE for submission to the Assistant Secretary of the Army for Civil Works, unless the approval authority is further delegated.
7. If the No Wake Zone is approved, the district will coordinate with appropriate officials for implementation of the approved measures. The state or local official must obtain all applicable federal, state, and local permits, including any necessary Department of the Army permits, to authorize the installation and retention of No Wake Zone signs in navigable waters of the United States. After coordination of the location of the signage with the district, the signage will be installed and maintained by the state or local official at their own expense, and shall meet state agency and/or Coast Guard requirements. Additionally, the signage shall clearly state that the No Wake Zone only applies to recreational vessels. State or local officials will be responsible for enforcing the No Wake Zone at their own expense.
8. Questions regarding policy issues of this implementation guidance should be directed to Jeffrey McKee, Chief, Navigation and Operations Branch, at (202) 761-8648 or jeffrey.a.mckee@usace.army.mil.



JAMES C. DALTON, P.E.
Director of Civil Works

Encl

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SEC. 1149. NO WAKE ZONES IN NAVIGATION CHANNELS.

- a. **IN GENERAL.** — At the request of a state or local official, the Secretary, in consultation with the Commandant of the Coast Guard, shall promptly identify and, subject to the considerations in subsection (b), allow the implementation of measures for addressing navigation safety hazards in a covered navigation channel resulting from wakes created by recreational vessels identified by such official, while maintaining the navigability of the channel.
- b. **CONSIDERATIONS.**— In identifying measures under subsection (a) with respect to a covered navigation channel, the Secretary shall consider, as a minimum, whether—
 - (1) State or local law enforcement officers have documented the existence of safety hazards in the channel that are the direct result of excessive wakes from recreation vessels present in the channel;
 - (2) the Secretary has made a determination that safety concerns exist in the channel and that the proposed measures will remedy those concerns without significant impacts to the navigable capacity of the channel; and
 - (3) the measures are consistent with any recommendations made by the Commandant of the Coast Guard to ensure the safety of vessels operating in the channel and the safety of the passengers and crew aboard such vessels.
- c. **COVERED NAVIGATION CHANNEL DEFINED.**— In this section, the term “covered navigation channel” means a navigation channel that—
 - (1) is federally marked or maintained;
 - (2) is part of the Atlantic Intracoastal Waterway; and
 - (3) is adjacent to a marina.
- d. **SAVINGS CLAUSE.** — Nothing in this section shall be construed to relieve the master, pilot, or other person responsible for determining the speed of a vessel from the obligation to comply with the inland navigation regulations promulgated pursuant to section 3 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2071) or any other applicable laws or regulations governing the safe navigation of a vessel.