



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2013-0118]

RIN 1625-AA08

Special Local Regulations; Marine Events, Wrightsville
Channel; Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard is proposing to establish a Special Local Regulation for the "Swim the Loop/Motts Channel Sprint" swim event, to be held on the waters adjacent to and surrounding Harbor Island in Wrightsville Beach, North Carolina. This Special Local Regulation is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic on the Atlantic Intracoastal Waterway within 550 yards north and south of the U.S. 74/76 Bascule Bridge crossing the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, North Carolina, during the swim event.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods. FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail BOSN4 Joseph M. Edge, Coast Guard Sector North Carolina, Coast Guard; telephone 252-247-4525, e-mail Joseph.M.Edge@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hariston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2013-0118] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit

them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2013-0118) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

4. Public meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under ADDRESSES. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the Federal Register.

B. Regulatory History and Information

For a similar event last year, we published a Notice of Proposed Rulemaking (NPRM) on June 13, 2012, entitled, "Special Local Regulations for Marine Events, Wrightsville Channel; Wrightsville Beach, NC" in the Federal Register (77 FR 35321). We received no comments on that proposed rule. No public meeting was requested, and none was held.

C. Basis and Purpose

On October 6, 2013, from 8:45 a.m. until 11:45 a.m., Without Limits Coaching will sponsor "Swim the Loop" and the "Motts Channel Sprint" on the waters adjacent to and surrounding Harbor Island in Wrightsville Beach, North Carolina. The swim event will consist of up to 150 swimmers per event swimming a 1.3 mile course or a 3.5 mile course around Harbor Island in Wrightsville Beach, North Carolina. Participants will enter the Atlantic Intracoastal Waterway at the Dockside Marina on the west bank of the Atlantic Intracoastal Waterway south of the U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina, and swim

north and clockwise around Harbor Island returning to the Dockside Marina. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during this event.

D. Discussion of Proposed Rule

The Coast Guard is proposing to establish a safety zone on the navigable waters of the Atlantic Intracoastal Waterway 550 yards north and south of the U.S. 74/76 Bascule Bridge, mile 283.1, latitude 34°13'06" North, longitude 077°48'44" West, at Wrightsville Beach, North Carolina.

To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the channel during this event. Specifically, the channel in the vicinity of the U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina, will remain closed during the event on October 6, 2013, from 8 a.m. until 12 p.m. During the event, general navigation within the safety zone will be restricted, no person or vessel may enter or remain in the regulated area, with the exception of participants and vessels authorized by the Coast Guard Captain of the Port or his representative.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we

summarize our analyses based on a number of these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the area, the effect of this rule will not be significant because the regulated area will be in effect for a limited time, from 8 a.m. until 12 p.m., on October 6, 2013. The Coast Guard will provide advance notification via maritime advisories so mariners can adjust their plans accordingly. The regulated area will apply only to the section of Atlantic Intracoastal Waterway in the immediate vicinity of U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina. Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that

this proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule will affect the following entities, some of which may be small entities: the owners or operators of recreational vessels intending to transit the specified portion of Atlantic Intracoastal Waterway from 8 a.m. to 12 p.m. on October 6, 2013.

This proposed rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule will only be in effect for four hours from 8 a.m. until 12 p.m. The regulated area applies only to the section of Atlantic Intracoastal Waterway in the vicinity of the U.S. 74/76 Bascule Bridge at Wrightsville Beach, North Carolina. Vessel traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the swim course. The Patrol Commander will allow non-participating vessels to transit the event area once all swimmers are safely clear of navigation channels and vessel traffic areas. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that

this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this

proposed rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections

3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children from Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

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

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. This special local regulation is necessary to provide for the safety of the general public and event participants from potential hazards associated with movement of vessels near the event area. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

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

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

PART 100 – SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233

2. Add § 100.35-T05-0118 to read as follows:

§ 100.35-T05-0118, SPECIAL LOCAL REGULATIONS FOR MARINE EVENTS, WRIGHTSVILLE CHANNEL; WRIGHTSVILLE BEACH, NC

(a) Regulated area. The following location is a regulated area: All waters of the Atlantic Intracoastal Waterway within 550 yards north and south of the U.S. 74/76 Bascule Bridge, mile 283.1, latitude 34°13'06" North, longitude 077°48'44" West, at Wrightsville Beach, North Carolina. All coordinates reference Datum NAD 1983.

(b) Definitions: (1) Coast Guard Patrol Commander means a commissioned, warrant, or petty officer of the U. S. Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina.

(2) Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) Participant means all vessels participating in the "The Crossing" swim event under the auspices of the Marine Event

Permit issued to the event sponsor and approved by Commander, Coast Guard Sector North Carolina.

(4) Spectator means all persons and vessels not registered with the event sponsor as participants or official patrol.

(c) Special local regulations: (1) The Coast Guard Patrol Commander will control the movement of all vessels in the vicinity of the regulated area. When hailed or signaled by an official patrol vessel, a vessel approaching the regulated area shall immediately comply with the directions given. Failure to do so may result in termination of voyage and citation for failure to comply.

(2) The Coast Guard Patrol Commander may terminate the event, or the operation of any support vessel participating in the event, at any time it is deemed necessary for the protection of life or property. The Coast Guard may be assisted in the patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(3) Vessel traffic, not involved with the event, may be allowed to transit the regulated area with the permission of the Patrol Commander. Vessels that desire passage through the regulated area shall contact the Coast Guard Patrol Commander on VHF-FM marine band radio for direction. Only participants and official patrol vessels are allowed to enter the regulated area.

(4) All Coast Guard vessels enforcing the regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz)

and channel 22 (157.1 MHz). The Coast Guard will issue marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) Enforcement period: This section will be enforced from 8 a.m. to 12 p.m. on October 6, 2013.

Dated: March 13, 2013 _____

A. POPIEL
Captain, U.S. Coast Guard
Captain of the Port North Carolina

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Date: 03/29/2013]