



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2013-0296]

RIN 1625-AA08

Special Local Regulation, Cruce a Nado Internacional de la Bahia de Ponce Puerto Rico, Bahia de Ponce; Ponce, PR.

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

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SUMMARY: The Coast Guard proposes to establish a special local regulation on the waters of Bahia de Ponce in Ponce, Puerto Rico during the Cruce a Nado Internacional de la Bahia de Ponce Puerto Rico, a swimming event. The event is scheduled to take place on Sunday, September 1, 2013. Approximately 100 swimmers are anticipated to participate in the event, and no spectator vessels are anticipated to be present. The special local regulation is necessary to provide for the safety of life on the navigable waters of the United States during the event. The special local regulation establishes a swim area, where all persons and vessels, except those participating in the race or vessels patrolling the swim area, will be prohibited from entering, transiting through, anchoring in, or remaining within the area unless authorized by the Captain of the Port San Juan or a

designated representative.

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].

Requests for public meetings must be received by the Coast Guard on or before [INSERT DATE 7 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 Mr. Efrain Lopez, Sector San Juan Prevention Department, Coast Guard; telephone (787) 289-2097, e-mail

efrain.lopez1@uscg.mil. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
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-2013-0296 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-2013-0296 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 on or before [INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], 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

The current regulations under 33 CFR 100 address safety for reoccurring marine events. This marine event does not appear in the current regulations; however, as it is a regulation to provide effective control over regattas and marine parades on the navigable waters of the United States so as to ensure safety of life in a regatta or marine parade, this marine event needs to be temporarily added.

### C. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Cruce a Nado Internacional de la Bahia de Ponce Puerto Rico.

### D. Discussion of Proposed Rule

On September 1, 2013, Club Cruce a Nado Inc. is sponsoring the Cruce a Nado Internacional de la Bahia de Ponce Puerto Rico, a swimming event. The event will be held on the waters of Bahia de Ponce in Ponce, Puerto Rico. Approximately 100 swimmers are anticipated to participate in the event, and it is not anticipated that there will be any spectator vessels present.

The proposed rule would establish a special local regulation that will encompass certain waters of Bahia de Ponce in Ponce, Puerto Rico. The special local regulation will be enforced from 3 p.m. until 6 p.m. on September 1, 2013. The special local regulation will establish a swim area, where only those persons participating in the race, and those vessels patrolling the swim area may be. Non-participant people and vessels will be prohibited from entering, transiting through, anchoring in, or remaining within the area unless authorized by the Captain of the Port San Juan or a designated representative.

Persons and vessels may request authorization to enter,

transit through, anchor in, or remain within the swim area by contacting the Captain of the Port San Juan by telephone at (787) 289-2041, or through a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the swim area is granted by the Captain of the Port San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port San Juan or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

#### 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.

The economic impact of this rule is not significant for the following reasons: (1) the special local regulation will be enforced for only three hours; (2) although non-participant persons and vessels will not be able to enter, transit through, anchor in, or remain within the swim area, without authorization from the Captain of the Port San Juan or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the swim area during the enforcement period if authorized by the Captain of the Port San Juan or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

## 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 rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Bahia de Ponce encompassed within the special local regulation from 3 p.m. until 6 p.m. on September 1, 2013.

For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

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 the creation of a special local regulation in conjunction with a regatta or marine parade to ensure the safety of race participants and the general public during the event. 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 a temporary § 100.35T07-0296 to read as follows:

§ 100.35T07-0296 Special Local Regulations, Cruce a Nado Internacional de la Bahia de Ponce Puerto Rico, Bahia de Ponce; Ponce, Puerto Rico.

(a) Regulated Area. The following regulated area is established as a special local regulation. All coordinates are North American Datum 1983.

(1) Swim Area. All waters of Bahia de Ponce encompassed within an imaginary line connecting the following points: starting at Point 1 in position 17°58.85N, 66°37.48W; thence

southwest to Point 2 in position 17°57.50N, 66°38.20W; thence southeast to Point 3 in position 17°57.35N, 66°37.95W; thence northeast to point 4 in position 17°58.73N, 66°37.25W; thence northwest along the northeastern shoreline of Bahia de Ponce to the origin. All persons and vessels, except those persons participating in the race and those vessels patrolling the swim area, are prohibited from entering, transiting through, anchoring in, or remaining within the swim area.

(2) [Reserved]

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port San Juan in the enforcement of the regulated areas.

(c) Regulations.

(1) All persons and vessels, except those persons participating in the race and those vessels patrolling the swim area, are prohibited from entering, transiting through, anchoring in, or remaining within the swim area.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the regulated area by contacting the Captain of the Port San Juan by telephone at 787-289-2041, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the

Port San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port San Juan or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Effective Date. This rule is will be enforced from 3 p.m. until 6 p.m. on September 1, 2013.

Dated: 25 April 2013

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D. W. Pearson  
Captain, U.S. Coast Guard  
Captain of the Port San Juan

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Date: 05/14/2013]