

incentives reauthorized by the 2006 amendments pertaining to the remining of certain lands and water adversely affected by past mining.

### Public Comment Procedures

**Written Comments:** If you submit written comments, they should be specific, confined to issues pertinent to the proposed rule, and explain the reason for any recommended changes. We appreciate all comments, but those most useful and likely to influence decisions on any revisions will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, the 2006 amendments, case law, or other pertinent State or Federal laws or regulations.

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for the rulemaking and considered. Comments sent to an address other than those listed above (see **ADDRESSES**) will not be included in the docket for the rulemaking.

**Public Availability of Comments:** Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: August 8, 2008.

**C. Stephen Allred,**

*Assistant Secretary, Land and Minerals Management.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2008-0738]

RIN 1625-AA08

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish Temporary special local

regulations for the swim portions of “Beach 2 Battleship Full and Half Iron Distance Triathlon”, to be held on the waters of Banks Channel, adjacent to Wrightsville Beach, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in Wrightsville Channel during the swimming portion of this event.

**DATES:** Comments and related material must reach the Coast Guard on or before September 17, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2008-0738 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* 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.

(3) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Christopher D. Humphrey, Coast Guard Sector North Carolina, Atlantic Beach, NC, (252) 247-4571. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

### SUPPLEMENTARY INFORMATION:

#### 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0738), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you

include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them 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. We may change this proposed rule in view of them.

### 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> at any time. Enter the docket number for this rulemaking (USCG-2008-0738) in the Search box, and click “Go >>.” You may also visit either 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; or U.S. Coast Guard Sector North Carolina, 2301 East Fort Macon Rd., Atlantic Beach, North Carolina 28512 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

### Privacy Act

Anyone can search the electronic form of all 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 system of records notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

### Public Meeting

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

## Background and Purpose

On November 1, 2008, the Wilmington YMCA will sponsor the "Beach 2 Battleship Full and Half Iron Distance Triathlon" on the waters of Banks Channel including the waters of Wrightsville Channel adjacent to Wrightsville Beach, North Carolina. The swim portion of the event will consist of two groups of 500 swimmers entering Banks Channel southwest of the Coast Guard Station and swimming northeast along Wrightsville Channel and Motts Channel to Seapath Marina. A fleet of spectator vessels are expected to gather near the event site to view the competition. To provide for the safety of the participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during this event.

## Discussion of Proposed Rule

The Coast Guard proposes the establishment of special local regulations on specified waters of Banks Channel. The regulation would be enforced from 6 a.m. to 11 a.m. on November 1, 2008. The effects of the regulation would be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no persons or vessels may enter or remain in the regulated area. Non-participating vessels will be allowed to transit between swim events, when the Coast Guard Patrol Commander determines it is safe to do so. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

## Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

## 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, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this regulation prevents traffic from transiting a portion of Wrightsville Channel and Motts Channel during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect.

Extensive advance notification will be made to the maritime community via marine information broadcast, area newspapers, local radio and television stations so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area between races, when the Coast Guard Patrol Commander deems it is safe to do so.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit this section of Wrightsville Channel, Motts Channel and Banks Channel from 6 a.m. to 11 a.m. on November 1, 2008. This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. Although the regulated area will apply to the Wrightsville Channel, 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.

## Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Coast Guard Sector North Carolina listed under **FOR FURTHER INFORMATION CONTACT** at the beginning of this rule. 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.

## Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

## Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

## Unfunded Mandates Reform Act

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

## Taking of Private Property

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

## Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of

Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

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

### Indian Tribal Governments

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

### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did

not consider the use of voluntary consensus standards.

### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, 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 under the Instruction that this action is not likely to have a significant effect on the human environment. An environmental analysis checklist supporting this preliminary determination is 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—REGATTAS AND MARINE PARADES

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

**Authority:** 33 U.S.C. 1233.

2. Add a temporary § 100.35–T05–0738 to read as follows:

#### § 100.35–T05–0738 Wrightsville Channel, Wrightsville Beach, NC.

(a) *Regulated area.* The regulated area is established for the waters of Banks Channel, adjacent to Wrightsville Beach, NC, from the southern tip of Wrightsville Beach approximate position latitude 34°11'15" N, longitude 077°48'51" W, thence northeast to Seapath Marina, Wrightsville Beach, NC, approximate position latitude 34°12'45" N, longitude 077°48'27" W. All coordinates reference Datum NAD 1983.

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

(2) *Official Patrol* means any person or 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.

(c) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) The operator of a vessel in the regulated area shall stop the vessel immediately when instructed to do so by the Official Patrol and then proceed as directed.

(iv) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the swim course.

(d) *Enforcement Period.* This section will be enforced from 6 a.m. to 11 a.m. on November 1, 2008.

Dated: July 28, 2008.

**Fred M. Rosa, Jr.,**

*Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.*

[FR Doc. E8–19001 Filed 8–15–08; 8:45 am]

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### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2008–0411]

RIN 1625–AA00

#### Safety Zone; Captain of the Port Zone Jacksonville; Offshore Cape Canaveral, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishment of four safety zones to protect infrastructure and marine traffic from the hazards associated with recurring space vehicle launches from Cape Canaveral Air Force Station (CCAFS). The safety zones extend from the shoreline to points approximately 12 nautical miles offshore and will only be activated and enforced during pre-launch hours and terminate approximately 15 minutes after a successful launch. This action is necessary to protect marine traffic from the hazards associated with the launching of space vehicles; expedite notification to the public of such launches and also reduce the