

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–06–057]

RIN 1625–AA08

Special Local Regulation for Marine Event, Bogue Sound, Morehead City, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations for the “Crystal Coast Super Boat Grand Prix”, a power boat race to be held on the waters of Bogue Banks adjacent to Morehead City, NC. 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 the Morehead City Turning Basin including sections of the Intra-Coastal Waterways and Morehead City Channel during the power boat race.

DATES: Comments and related material must reach the Coast Guard on or before July 20, 2006.

ADDRESSES: You may mail comments and related material to: Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia, 23704–5004, or hand deliver them to Room 119 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398–6203, or e-mail them to *dennis.m.sens@uscg.mil*.

The Inspections and Investigations Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Federal Building Fifth Coast Guard District between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

CWO Christopher Humphrey, Prevention Department, Sector North Carolina, at (252) 247–4525 or via e-mail to *Christopher.d.humphrey@uscg.mil*.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and

address, identify the docket number for this rulemaking (CGD05–06–057), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, 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.

Public Meeting

The Coast Guard will hold a public meeting to provide a forum for citizens to provide oral comments relating to the “Crystal Coast Super Boat Grand Prix”, a power boat race to be held on the waters of Bogue Banks adjacent to Morehead City, NC. The meeting will be open to the public.

This public meeting will be on Wednesday, June 28, 2006, from 6 p.m. to 9 p.m. The meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before June 26, 2006.

The Coast Guard public meeting will be held at the U.S. Coast Guard Sector North Carolina base, 2301 East Fort Macon Road, Atlantic Beach, NC. Send written material and requests to make oral presentations to CWO Christopher Humphrey, Commander, U.S. Coast Guard Sector North Carolina, Prevention Department, 2301 East Fort Macon Road, Atlantic Beach, NC, 28512–5633.

The meeting agenda includes the following:

- (a) Introduction of panel members.
- (b) Overview of meeting format.
- (c) Background on proposed marine event.

(d) Statements from citizens. Statements may be delivered in written form at the public meeting and made part of the docket or delivered orally not to exceed 10 minutes.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the meeting coordinator, CWO Christopher Humphrey, as soon as possible.

Background and Purpose

On September 24, 2006, the Super Boat International Productions Inc. will sponsor the “Crystal Coast Super Boat Grand Prix, on the waters of Bogue Sound including the Morehead City Turning Basin, sections of the Intra-Coastal Waterway, and Morehead City Channel at Morehead City, North

Carolina. The event will consist of approximately 35 powerboats participating in two high-speed competitive races, traveling counter-clockwise around a race course. A fleet of spectator vessels are expected to gather near the event site to view the competition. 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 the races.

Discussion of Proposed Rule

The Coast Guard is proposing to establish this special local regulation on specified waters of Bogue Sound. The regulation would be enforced from 9 a.m. to 4 p.m. on September 24, 2006. The effect of the regulation would be to restrict general navigation in the regulated area during the races. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel would be allowed to enter or remain in the regulated area. Non-participating vessels would be allowed to transit the regulated area between races, 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 Evaluation

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. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary. Although this regulation would prevent traffic from transiting a portion of the Pasquotank River during the event, the effect of this regulation would not be significant due to the limited duration that the regulated area would be in effect and the extensive advance notification that would be made to the maritime community via marine information broadcast, local radio stations and area newspapers 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 would be able to transit the regulated area between heats, 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. This rule would affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit this section of Bogue Sound including the Morehead City Turning Basin, Atlantic Intra-Coastal waterway and Morehead City Channel from 9 a.m. to 4 p.m. on September 24, 2006. 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 would apply to the Morehead City Channel, Morehead City Turning Basin and a 2 mile segment of the Atlantic Intra-coastal Waterway, south and west of the Highway 70 Bridge, from approximately mile 204 of the Atlantic Intra-coastal Waterway to mile 206, traffic would 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 during the event, vessels would be required to proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. The Patrol Commander would allow non-participating vessels to transit the event area between races. Before the enforcement period, we would 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 (Public Law 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 U.S. Coast Guard Sector North Carolina, listed at the beginning of this rule. The Coast Guard will not retaliate against small entities that question or complain about this 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect 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 Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, 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 there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34)(h), of the Instruction, an “Environmental Analysis Check List” is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 100

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

For the reasons set out in the preamble, the Coast Guard amends 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; Department of Homeland Security Delegation No. 0170.1.

2. From 9 a.m. to 4 p.m. on September 24, 2006, add a temporary § 100.35–T05–057 to read as follows:

§ 100.35–T05–057 Bogue Sound, Morehead City, North Carolina.

(a) *Regulated area.* The regulated area is established for the waters of Bogue Sound, adjacent to Morehead City, NC, from the southern tip of Sugar Loaf Island approximate position latitude 34°42′55″ N longitude 076°42′48″ W, thence westerly to Morehead City Channel Daybeacon 7 (LLNR 38620), thence southwest along the channel line to Bogue Sound Light 4 (LLRN 38770), thence southerly to Causeway Channel Daybeacon 2 (LLNR 38720), thence southeasterly to Money Island Daybeacon 1 (LLNR 38645), thence easterly to Eight and One Half Marina Daybeacon 2 (LLNR 38685), thence easterly to the western most shoreline of Brant Island approximate position latitude 34°42′36″ N longitude 076°42′11″ W, thence northeasterly

along the shoreline to Tombstone Point approximate position latitude 34°42′14″ N longitude 076°41′20″ W, thence southeasterly to the east end of the pier at Coast Guard Sector North Carolina approximate position latitude 34°42′00″ N longitude 076°40′5″ W, thence easterly to Morehead City Channel Buoy 20 (LLNR 29427), thence northerly to Beaufort Harbor Channel LT 1BH (LLNR 34810), thence northwesterly to the southern tip of Radio Island approximate position latitude 34°42′22″ N longitude 076°40′52″ W, thence northerly along the shoreline to approximate position latitude 34°43′00″ N longitude 076°41′25″ W, thence westerly to the North Carolina State Port Facility, thence westerly along the State Port to the southwest corner approximate position latitude 34°42′55″ N longitude 076°42′12″ W, thence westerly to the southern tip of Sugar Loaf Island the point of origin. 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 has 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.

(3) *Participant* includes all vessels participating in the “Crystal Coast Super Boat Grand Prix” under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector North Carolina.

(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) 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 race course.

(d) *Enforcement period.* This section will be enforced from 9 a.m. to 4 p.m. on September 24, 2006.

Dated: May 27, 2006.

Larry L. Hereth,

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

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU11

Endangered and Threatened Wildlife and Plants; Proposed Special Rule Pursuant to Section 4(d) of the Endangered Species Act for the Pacific Coast Distinct Population Segment of the Western Snowy Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are extending the public comment period on the proposed special rule for the threatened Pacific Coast distinct population segment of the western snowy plover (*Charadrius alexandrinus nivosus*). Comments previously submitted need not be resubmitted as they have been incorporated into the public record and will be fully considered in the final determination.

DATES: The public comment period for the proposed special rule published on April 21, 2006 (71 FR 20625) is extended to August 21, 2006. Any comments received after the closing date may not be considered in the final decision on the proposal.

ADDRESSES: You may submit comments and other information, identified by Attn: WSP–4(d), by any of the following methods:

- *Mail or hand delivery/courier:* Field Supervisor, Arcata Fish and Wildlife Office, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, California 95521.

- *Fax:* 707–822–8411.

- *E-mail:* fw8snowyplover@fws.gov.

See Public Comments Solicited section below for file format and other information about electronic filing.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Comments and materials received for this rule will be available for public inspection, by appointment, during normal business hours at the Arcata Fish and Wildlife Office at the above