

Dated: May 12, 2010.

M.S. Ogle,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2010-0363]

RIN 1625-AA08

Special Local Regulation for Marine Event; 2010 International Cup Regatta, Pasquotank River, Elizabeth City, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement period of special local regulations for a recurring marine event involving power boat races in the Fifth Coast Guard District. This action is intended to restrict vessel traffic in a portion of the Pasquotank River, near Elizabeth City, NC, during the *2010 International Cup Regatta*. Special local regulations are necessary to provide for the safety of life on navigable waters during the event.

DATES: This rule is effective from June 4 through June 6, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0363 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0363 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Petty Officer Kevin Ouyoumjian, Prevention Department, Coast Guard Sector North Carolina, Atlantic Beach, NC; telephone 252-247-4528, e-mail

Kevin.J.Ouyoumjian@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the potential dangers posed by vessel traffic operating in close proximity to high speed power boats makes special local regulations necessary to provide for the safety of participants, event support vessels, spectator craft and other vessels. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, patrol vessels, spectator craft and other vessels transiting the event area. For these reasons, it is in the public interest to have these regulations in effect during the event. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions. On scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners.

For the same reasons, the Coast Guard also finds under 5 U.S.C. 553(d)(3) that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Basis and Purpose

This regulation temporarily changes the enforcement period of special local regulations for a recurring marine event in 33 CFR 100.501 and 33 CFR Table to § 100.501, No. 54. On June 5 and 6, 2010, Carolina Cup Regatta, Inc. will sponsor the *2010 International Cup Regatta* hydroplane races on the waters of the Pasquotank River adjacent to Elizabeth City, North Carolina. The event will consist of approximately 75 hydroplane powerboats conducting high-speed competitive races on the Pasquotank River from shoreline to shoreline in the vicinity of the Elizabeth City Waterfront, Elizabeth City, North Carolina. A fleet of spectator vessels is expected to gather near the event site to view the competition.

The regulation at 33 CFR 100.501 and 33 CFR Table to 100.501 is effective annually for this marine event on the second Saturday and Sunday of June,

which is June 12 and 13 this year. Because the dates of the event this year differ from the effective dates in the CFR, this rule temporarily changes the effective dates of the existing regulation. To provide for the safety of participants, spectators, support and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the hydroplane races. The existing regulation in the CFR will be enforced for the duration of the event this year on June 5 and 6 instead of June 12 and 13.

Discussion of Rule

The Coast Guard is temporarily changing the effective dates of special local regulations, in 33 CFR Table to 100.501, No. 54, for the *2010 International Cup Regatta* from "June—2nd Saturday and Sunday" to "June—1st Saturday and Sunday" because the regatta will be held on the latter dates this year. The temporary special local regulations in 33 CFR 100.501 will be enforced from 9 a.m. to 6:30 p.m. on June 5 and June 6, 2010, and will restrict general navigation in the regulated area described in 33 CFR Table to 100.501, No. 54. The name of the event has also changed this year from the *Carolina Cup Regatta* to the *2010 International Cup Regatta*, and the event sponsor's name has changed from the Virginia Boat Racing Association to Carolina Cup Regatta, Inc. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel will be allowed to enter or remain in the regulated area. 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 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 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 rule prevents traffic from transiting a portion of the Pasquotank River 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 and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, this rulemaking does not change the permanent regulated areas that have been published in 33 CFR 100.501, Table to § 100.501. In some cases vessel traffic may be able to transit the regulated area 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 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 rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the Pasquotank River in the regulated area. This regulation will not have a significant impact on a substantial number of small entities because it will be enforced only in a limited area for a short duration. The Captain of the Port will ensure that small entities are able to operate in the areas where events are occurring when it is safe to do so. In some cases, vessels will be able to safely transit around the regulated area and, with the permission of the Patrol Commander, vessels may transit through the regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture

Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). 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 rule calls 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 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 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will 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.

Civil Justice Reform

This 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to

health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this 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 concluded this action is one of a

category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction because the rule involves promulgation of special local regulations issued in conjunction with a regatta or marine parade.

Under figure 2-1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this 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 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.

■ 2. Effective from June 4 through June 6, 2010, in § 100.501, Table to § 100.501, suspend line No. 54 and add Line No. 58 to read as follows:

§ 100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.

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Table To § 100.501.—All Coordinates Listed in the Table to § 100.501 Reference Datum NAD 1983.

COAST GUARD SECTOR DELAWARE BAY—COTP ZONE

Number	Date	Event	Sponsor	Location
58	June 4-6, 2010	2010 International Cup Regatta.	Carolina Cup Regatta, Inc.	The waters of the Pasquotank River, adjacent to Elizabeth City, NC, from shoreline to shoreline, bounded on the west by the Elizabeth City Draw Bridge and bounded on the east by a line originating at a point along the shoreline at latitude 36°17'54" N, longitude 076°12'00" W, thence southwesterly to latitude 36°17'35" N, longitude 076°12'18" W at Cottage Point.

Dated: May 11, 2010.

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2009-0302]

RIN 1625-AA08

Special Local Regulation; Maggie Fischer Memorial Great South Bay Cross Bay Swim, Great South Bay, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent special local regulation on Great South Bay, NY between Gilbert Park, Brightwaters, NY and Fire Island Lighthouse Dock, Fire Island, NY due to the annual Maggie Fischer Memorial Great South Bay Cross Bay Swim. This special local regulation is necessary to protect swimmers, safety vessels and the boating public on the navigable waters of Great South Bay, NY. Entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, CT.

DATES: This rule is effective June 28, 2010.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-0302 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0302 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail: Chief Petty Officer Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203-468-4459, christie.m.dixon@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 8, 2009 we published an Interim Rule with a request for comments entitled, Special Local Regulation, Maggie Fischer Memorial Great South Bay Cross Bay Swim, Great South Bay, NY, in the **Federal Register** (74 FR 32428). We did not receive any

comments or requests for meetings in response to the Interim Rule.

Basis and Purpose

The Cross Bay Swim has been successfully held off and on from the early 1900's on the waters of Great South Bay, NY. This 5.25 mile swim has historically involved up to 100 swimmers and accompanying safety craft that travel along a course located directly north of the Fire Island Lighthouse Dock, NY and extending to Gilbert Park in Brightwaters, NY. Prior to this rule there was not a regulation in place to protect the swimmers or safety craft from the hazards imposed by marine traffic.

To ensure the continued safety of the swimmers, safety craft and the boating public, the Coast Guard is establishing a permanent special local regulation on the navigable waters of the Great South Bay, New York that would exclude all unauthorized persons and vessels from approaching within 100 yards of any swimmer or safety craft on the race course from 6:30 a.m. to 12:30 p.m. on the day of the race.

Entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound or by designated on-scene patrol personnel. Any violation of the safety zone described herein is punishable by, among other things, civil and criminal penalties, in rem liability against the offending vessel, and the initiation of suspension or revocation proceedings against Coast