

**§ 573.1 What is the purpose of this part?**

Voluntary compliance is the goal of the Commission. Voluntary compliance is achieved when a tribe and the NIGC staff are able to resolve any potential enforcement issues prior to the Chair issuing an enforcement action. This part sets forth efforts for achieving voluntary compliance and enforcement action when voluntary compliance is not forthcoming. While this part is intended to garner voluntary compliance through a graduated enforcement process, there may be circumstances under which a graduated enforcement process is omitted and an enforcement action must be taken. This part also sets forth general rules governing the Commission's enforcement of the Act, this chapter, and tribal ordinances and resolutions approved by the Chair under part 522 of this chapter. Civil fines in connection with notice of violation issued under this part are addressed in part 575 of this chapter.

■ 4. Add § 573.2 to read as follows:

**§ 573.2 When may a letter of concern be issued?**

(a) Prior to the Chair taking an enforcement action, a letter of concern may be provided to the respondent by NIGC staff, detailing concerns regarding the respondent's compliance with the Act, this chapter, or any tribal ordinance or resolution approved by the Chair under part 522 of this chapter. A letter of concern describes the available facts and information, includes a preliminary assessment regarding the incident or condition, and indicates that it may be a violation.

(b) Action under this section does not constitute agency action.

(c) A letter of concern issued under paragraph (b) of this section must provide a time period for the respondent to respond. If the letter of concern is resolved without enforcement action, NIGC staff may send an investigation completion letter pursuant to § 571.4 of this chapter.

(d) The Chair's discretion to take an enforcement action is not limited or constrained in any way by this section. When the Chair takes enforcement action before a letter of concern is issued, the enforcement action must state the reasons for moving directly to an enforcement action without first issuing a letter of concern.

■ 5. In § 573.3, revise paragraph (a) to read as follows:

**§ 573.3 When may the Chair issue a notice of violation?**

(a) The Chair may issue a notice of violation to any person for violations of any provision of the Act or this chapter,

or of any tribal ordinance or resolution approved by the Chair under part 522 of this chapter.

\* \* \* \* \*

**§ 573.6 [Redesignated as § 573.4]**

■ 6. Redesignate § 573.6 as § 573.4.

■ 7. In newly redesignated § 573.4, revise the section heading and paragraphs (a) introductory text, (a)(3), (6), (7), (8), (9), (12), (c) introductory text, (c)(1), (c)(2) introductory text, and (c)(3) to read as follows:

**§ 573.4 When may the Chair issue an order of temporary closure?**

(a) *When an order of temporary closure may issue.* Simultaneously with or subsequently to the issuance of a notice of violation under § 573.3, the Chair may issue an order of temporary closure of all or part of an Indian gaming operation if one or more of the following substantial violations are present:

\* \* \* \* \*

(3) A gaming operation operates for business without a tribal ordinance or resolution that the Chair has approved under part 522 of this chapter.

\* \* \* \* \*

(6) There is clear and convincing evidence that a gaming operation defrauds a tribe.

(7) A management contractor operates for business without a contract that the Chair has approved under part 533 of this chapter.

(8) Any person knowingly submits false or misleading information to the Commission or a tribe in response to any provision of the Act, this chapter, or a tribal ordinance or resolution that the Chair has approved under part 522 of this chapter.

(9) A gaming operation refuses to allow an authorized representative of the Commission or an authorized tribal official to enter or inspect a gaming operation, in violation of § 571.5 or § 571.6 of this chapter, or of a tribal ordinance or resolution approved by the Chair under part 522 of this chapter.

\* \* \* \* \*

(12) A gaming operation's facility is constructed, maintained, or operated in a manner that threatens the environment or the public health and safety, in violation of a tribal ordinance or resolution approved by the Chair under part 522 of this chapter.

\* \* \* \* \*

(c) *Informal expedited review.* Within seven (7) days after service of an order of temporary closure, the respondent may request, orally or in writing, informal expedited review by the Chair.

(1) The Chair shall complete the expedited review provided for by this paragraph within two (2) days after his or her receipt of a timely request.

(2) The Chair shall, within two (2) days after the expedited review provided for by this paragraph:

\* \* \* \* \*

(3) Whether or not a respondent seeks informal expedited review under this paragraph, within thirty (30) days after the Chair serves an order of temporary closure the respondent may appeal the order to the Commission under part 577 of this chapter. Otherwise, the order shall remain in effect unless rescinded by the Chair for good cause.

■ 8. Add § 573.5 to read as follows:

**§ 573.5 When does an enforcement action become final agency action?**

An enforcement action shall become final agency action and a final order of the Commission when:

(a) A respondent fails to appeal the enforcement action as provided for in part 577 of this chapter and does not enter into a settlement agreement resolving the matter in its entirety; or

(b) A respondent enters into a settlement agreement resolving the matter in its entirety at any time after the issuance of the enforcement action.

Dated: July 31, 2012, Washington, DC.

**Tracie L. Stevens,**  
*Chairwoman.*

**Steffani A. Cochran,**  
*Vice-Chairwoman.*

**Daniel J. Little,**  
*Associate Commissioner.*

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100**

[Docket No. USCG-2012-0656]

**Annual Marine Events in the Eighth Coast Guard District, Sabine River; Orange, TX**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce Special Local Regulations for the S.P.O.R.T. Power Boat Neches River in Orange, TX from 3 p.m. on September 21, 2012, through 6 p.m. on September 23, 2012. This action is necessary to provide for the safety of the participants, crew, spectators,

participating vessels, non-participating vessels and other users of the waterway. During the enforcement period no person or vessel may enter the zone established by the Special Local Regulation without permission of the Captain of the Port (COTP) Port Arthur or his designated on-scene Patrol Commander.

**DATES:** The regulation in 33 CFR 100.801(60) will be enforced from 3 p.m. to 6 p.m. on September 21, 2012; and from 9 a.m. to 6 p.m. on September 22 and 23, 2012.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice of enforcement, call or email Mr. Scott Whalen. U.S. Coast Guard Marine Safety Unit Port Arthur, TX; telephone 409-719-5086, email [scott.k.whalen@uscg.mil](mailto:scott.k.whalen@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce Special Local Regulation for the annual SPORT Boat Races in 33 CFR 100.801(60) on September 21, 2012, from 3 p.m. to 6 p.m. and on September 22 and 23, 2012 from 9 a.m. to 6 p.m.

Under the provisions of 33 CFR 100.801, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port or his designated on-scene Patrol Commander. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede participants or official patrol vessels. The Coast Guard may be assisted by other federal, state or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 100.801 and 33 U.S.C. 1233. In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with notification of this enforcement period via Local Notice to Mariners, Marine Information Broadcasts, and Marine Safety Information Bulletins.

If the Captain of the Port or his designated on-scene Patrol Commander determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: July 18, 2012.

**G.J. Paitl,**

*Captain, U.S. Coast Guard, Captain of the Port, Port Arthur.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG-2012-0482]

RIN 1625-AA08

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a Special Local Regulation for the "Swim Harbor Island" 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:** This rule is effective on September 29, 2012 and will be enforced from 7 a.m. until 11 a.m. on September 29, 2012.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG-2012-0482]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email BOSN4 Joseph M. Edge, Coast Guard Sector North Carolina, Coast Guard; telephone 252-247-4525, email [Joseph.M.Edge@uscg.mil](mailto:Joseph.M.Edge@uscg.mil). 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:

#### Table of Acronyms

DHS Department of Homeland Security

FR Federal Register

NPRM Notice of Proposed Rulemaking

#### A. Regulatory History and Information

On June 13, 2012 a Notice of Proposed Rule Making (NPRM) was published in 77 FR 35321. We received no comments on the proposed rule. No public meeting was requested, and none was held.

#### B. Basis and Purpose

On September 29, 2012 from 7 a.m. to 11 a.m., Without Limits Coaching will sponsor "Swim Harbor Island" on the waters adjacent to and surrounding Harbor Island in Wrightsville Beach, North Carolina. The swim event will consist of up to 200 swimmers swimming a 3.5 mile course around Harbor Island in 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 event area during this event.

#### C. Discussion of the Final Rule

The Coast Guard is establishing 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. 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.

In an effort to enhance safety of event participants, the area within the proposed safety zone, will remain closed during the event on September 29, 2012 from 7 a.m. to 11 a.m. In the interest of participant safety, general navigation within the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Coast Guard Captain of the Port or his representative, no person or vessel may enter or remain in the regulated area.

#### D. 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.