

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[CGD05-06-015]

RIN 1625-AA08

**Special Local Regulations for Marine Events; Onslow Bay, Beaufort Inlet, Morehead City State Port, Beaufort Harbor and Taylor Creek, NC**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing special local regulations during the "Pepsi Americas' Sail 2006", tall ships parade and race to be held on Onslow Bay, Beaufort Inlet, inland waters of the Morehead City State Port and Beaufort Waterfront. 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 in segments of coastal North Carolina in the vicinity of Onslow Bay, Beaufort Inlet, inland waters of Morehead City State Port and Beaufort Harbor during the parade of sail and tall ship race.

**DATES:** This rule is effective from July 1, 2006 through July 5, 2006.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD05-06-015) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, Room 119, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** CWO C.D. Humphrey, U.S. Coast Guard Sector North Carolina, at (252) 247-4525.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On March 22, 2006, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Onslow Bay, Beaufort Inlet, Morehead City State Port, Beaufort Harbor and Taylor Creek, NC in the *Federal Register* (71 FR 14428). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

During the period 30 June to July 5, 2006, Pepsi Americas' Sail 2006 LLC

will host the North Carolina port call of the "Pepsi Americas" Sail 2006". A parade of sails and tall ships racing event are planned during this period to be conducted on the waters adjacent to Onslow Bay, Beaufort Inlet and the inland waters of Morehead City State Port and Beaufort Harbor, North Carolina. The first event will be the "Tall Ships Parade of Sails" on July 1, 2006 that will commence in Anchorage Area "ALFA" as depicted on NOAA Chart 11545 "Beaufort Inlet and Part of Core Sound", and will enter Beaufort Inlet Channel at Beaufort Inlet Channel Lighted Buoy 7 and Beaufort Inlet Channel Lighted Buoy 8, and will proceed inbound to the Morehead City State Port turning basin thence to Beaufort Harbor Channel to Beaufort Harbor waterfront. The second event will be the "Tall Ships Race", on July 3, 2006 that will take place on Onslow Bay from Beaufort Inlet Channel and continuing west approximately 11 nautical miles to a line drawn along longitude 076-54' W. Because of the danger posed by numerous sailing vessels maneuvering in close proximity of each other during the proposed parade and race, special local regulations are necessary. For the safety concerns noted and to address the need for vessel control and vessel security, traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

**Discussion of Comments and Changes**

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the *Federal Register*. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of Onslow Bay, Beaufort Inlet, Morehead City State Port, Beaufort Harbor and Taylor Creek, North Carolina.

**Regulatory Evaluation**

This temporary 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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this temporary regulation will prevent traffic from transiting a segment of the Onslow Bay, Beaufort Inlet, Morehead City State Port and Beaufort Harbor during these events, the effect of this regulation will not be significant due to the limited duration that the regulated area will be enforced. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, area newspapers and local radio stations, so mariners can adjust their plans accordingly.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this temporary 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 would not have a significant economic impact on a substantial number of small entities. This temporary rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit these sections of the Onslow Bay, Beaufort Inlet, Morehead City State Port, Beaufort Harbor Channel and Taylor Creek during these events.

This temporary rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would be in effect for only a limited period. Although the regulated area will apply to two separate segments within and around the waters of Onslow Bay, Beaufort Inlet, Morehead City State Port and Beaufort Harbor, traffic may be allowed to pass through the regulated areas with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through a regulated area during an event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the event. Although this regulation prevents traffic from transiting the Onslow Bay, Beaufort Inlet, Morehead City State port and Beaufort Harbor Bay during these event, the effect of this regulation will not be significant because of its limited duration. Before the enforcement period, the Coast Guard 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 temporary 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 the address listed under **ADDRESSES**. 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 temporary 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 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 temporary rule will 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 temporary 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 temporary rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This temporary rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will 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 temporary 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 temporary rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded 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, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit are specifically excluded from further analysis and documentation under that section.

Under figure 2–1, paragraph (34)(h), of the Instruction, an “Environmental Analysis Check List” 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; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 100.35–T06–015 to read as follows:

#### § 100.35–T06–015 Onslow Bay, Beaufort Inlet, Morehead City State Port, Beaufort Harbor and Taylor Creek near Morehead City NC.

(a) *Regulated area* includes two segments within and around the waters of the Onslow Bay, Beaufort Inlet, Morehead City Turning Basin, Beaufort Harbor and Taylor Creek North Carolina.

(1) The first segment for the “Parade of Sail” is bounded by a line drawn from a position at latitude 34°39′36″ N, longitude 076°37′52″ W, thence southerly to a position at latitude

34°37'52" N, longitude 076°37'52" W, thence westerly to a position at latitude 34°37'36" N, longitude 076°40'17" W, thence southerly to a position at latitude 34°36'50" N, longitude 076°40'42" W, thence westerly to a position at latitude 34°36'57" N, longitude 076°41'25" W, thence northerly parallel to Beaufort Inlet Channel to latitude 34°40'37" N, longitude 076°40'32" W, thence northeasterly to latitude 34°41'21" N longitude 076°40'11" W, thence northwesterly parallel to Cutoff Channel to latitude 34°41'43" N, longitude 076°40'21" W, thence northwesterly parallel to Morehead City Channel to latitude 34°42'46" N, longitude 076°42'02" W, thence westerly to latitude 34°42'46" N, longitude 076°42'12" W, thence northerly to latitude 34°42'54" N, longitude 076°42'13" W, thence easterly along Morehead City State Port berth seven, six, five and four to latitude 34°42'52" N, longitude 076°41'33" W, thence southeasterly to latitude 34°42'35" N, longitude 076°41'20" W, thence southeasterly parallel to Morehead City Channel to latitude 34°42'19" N, longitude 076°40'49" W at the entrance to Beaufort Harbor Channel, thence along the western bank of Beaufort Harbor Channel to latitude 34°42'54" W, longitude 076°40'44" W, thence easterly to the southern tip of Pivers Island, latitude 34°42'54" N, longitude 076°40'24" W, thence northerly along the shoreline of Pivers Island to latitude 34°43'08" N, longitude 076°40'19" W, thence northerly to intersection of the Beaufort Bascule Bridge and the shoreline at latitude 34°43'21" N, longitude 076°40'12" W, thence northerly along the shoreline to latitude 34°43'38" N, longitude 076°40'17" W, thence northwesterly to latitude 34°43'47" N longitude 076°40'22" W, thence northeasterly to latitude 34°43'55" N, longitude 076°40'15" W, thence southerly along then shoreline to latitude 34°43'42" N, longitude 076°40'04" W, thence southerly parallel to Gallants Channel to the intersection of the Beaufort Bascule Bridge and the shoreline at latitude 34°43'21" N, longitude 076°40'05" W, thence southerly to Beaufort Waterfront at latitude 34°43'07" N, longitude 076°40'10" W, thence southeasterly along Beaufort waterfront to latitude 34°42'57" N, longitude 076°39'55" W, thence south to Carrot Island latitude 34°42'45" N, longitude 076°39'55" W, thence westerly following the shore line of Carrot Island to latitude 34°42'31" W, longitude 076°40'44" W, thence southeasterly to latitude 34°41'50" N, longitude 076°40'08" W, thence

southerly to the western tip of Shackleford Banks at latitude 34°41'18" N, longitude 076°39'57" W, thence southerly to latitude 34°40'30" N, longitude 076°39'50" W, thence southerly parallel to Beaufort Inlet Channel to latitude 34°39'35" N, longitude 076°40'00" W, thence east to the point of origin.

(2) The second segment for the "Tall Ships Race" is bounded by a line drawn from a position at latitude 34°40'36" N, longitude 076°41'00" W, thence westerly parallel to Bogue Banks to latitude 34°40'21" N, longitude 076°52'12" W, thence southwesterly to latitude 34°39'00" N 076°53'06" W, thence southeasterly to latitude 34°33'18" N, longitude 076°42'33" W, thence northeasterly to latitude 34°34'18" N, longitude 076°41'27" W, thence northerly to the point of origin.

(3) All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) Coast Guard Patrol Commander means any 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 authorized by the Coast Guard Patrol Commander or approved by Commander, Coast Guard Sector North Carolina.

(3) Participant includes all vessels participating in the Pepsi Americas' Sail 2006 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 the Official Patrol, participants, and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) Any person in the regulated area must stop immediately when directed to do so by any Official Patrol and then proceed only as directed.

(3) The operator of any vessel in the regulated area must stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

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

(5) When authorized to transit within the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the parade, race course and near other persons and vessels.

(d) *Enforcement period.* This section will be enforced from 6:30 a.m. to 1 p.m. on July 1, 2006, for the "Parade of

Sails"; and from 10:30 a.m. to 5:30 p.m. on July 3, 2006 for the "Tall Ships Race". If the "Tall Ships Race" is postponed due to inclement weather, then these temporary special local regulations will be enforced the same time period during one of the next two days, July 4, 2006 through July 5, 2006.

Dated: May 19, 2006.

Larry L. Hereth,

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09-06-027]

#### Safety Zone: Captain of the Port Detroit Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of Implementation of final rule.

**SUMMARY:** The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Detroit Zone during June 2006. This action is necessary to provide for the safety of life and property on navigable waters during these events. These safety zones will restrict vessel traffic from a portion of the Captain of the Port Detroit Zone.

**DATES:** The safety zones will be effective from 12:01 a.m. (local) on June 7, 2006 to 11:59 p.m. (local) on June 30, 2006.

**FOR FURTHER INFORMATION CONTACT:** LTJG Cynthia Channell, Chief of Waterways Management, Sector Detroit, 110 Mt. Elliott Ave., Detroit, MI at (313) 568-9580.

**SUPPLEMENTARY INFORMATION:** The Coast Guard is implementing certain permanent safety zones in 33 CFR 165.907 (published May 21, 2001, in the *Federal Register*, 66 FR 27868), for fireworks displays in the Captain of the Port Detroit Zone during June 2006. The following safety zones will be enforced during the times indicated below:

(1) *Bay-Rama Fishfly Festival*, New Baltimore, MI. Location: All waters off New Baltimore City Park, Lake St. Clair-Anchor Bay bounded by the arc of a circle with a 300-yard radius with its center located at approximate position 42°41' N, 082°44' W, on June 22, 2006, from 9 p.m. to 11 p.m.

(2) *St. Clair Shores Fireworks*, St. Clair Shores, MI. Location: All waters of Lake