

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[CGD05-07-012]

RIN 1625-AA08

#### Special Local Regulations for Marine Events; Sail Virginia 2007, Port of Hampton Roads, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish temporary special local regulations for "Sail Virginia 2007" marine event. This action is necessary to provide for the safety of life on navigable waters before, during, and after Sail Virginia 2007 activities. This proposed action is intended to restrict vessel traffic in the vicinity of the tall ship parade as the parade transits the Chesapeake Bay, Hampton Roads, the James and Elizabeth Rivers and Norfolk Harbor.

**DATES:** Comments and related material must reach the Coast Guard on or before April 18, 2007.

**ADDRESSES:** You may mail comments and related material to Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, hand-deliver them to Room 415 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 391-8149. 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 the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG TaQuitia Winn, U.S. Coast Guard Sector Hampton Roads, at (757) 668-5580.

#### 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 (CGD05-07-012), 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

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address listed 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

During the period June 7-12, 2007, the City of Norfolk and Norfolk Festevents Ltd. will sponsor "Sail Virginia 2007", a tall ships marine event. The six-day event will include more than twenty tall ships from around the world in recognition of the Jamestown 1606-1607 voyage, commemorating the 400th anniversary of our nation's birth place. More than 25 tall ships from around the world have been invited to participate.

Planned events in the Port of Hampton Roads include: The arrival of more than 20 tall ships and other vessels at Lynnhaven Anchorage on June 7 and 8, 2007; a Parade of Sail of approximately 20 tall ships and other vessels from there respective anchorages to Town Point Park, downtown Norfolk, on June 8, 2007; fireworks display adjacent to the Norfolk and Portsmouth seawalls on June 9, 2007; and the

scheduled departure of the majority of vessels on June 12, 2007. This event will be combined with the annual Norfolk Harborfest held each June.

The Parade of Sail event planned during this period will be conducted on the waters of the Chesapeake Bay, Hampton Roads the Elizabeth River and Norfolk Harbor, Virginia. Vessels participating in the "Tall Ships Parade of Sail" will rendezvous on June 8, 2007 in the vicinity of Thimble Shoal Channel lighted bell buoy "13" LLNR 9275 as depicted on NOAA Chart 12222 and will proceed inbound through the Elizabeth River to Norfolk Harbor Entrance Reach terminating at the Norfolk Harbor waterfront.

The Coast Guard anticipates numerous spectator craft for these events. Operators should expect significant vessel congestion along the parade route and viewing areas for the fireworks display.

The purpose of these regulations is to promote maritime safety and protect participants and the boating public in the Port of Hampton Roads during the "Tall Ship's Parade of Sail" event. The regulations will establish a clear parade route for the participating vessels and no wake zones along the parade route. The regulations will impact the movement of all vessels operating in the specified areas of the Port.

Vessel operators are also reminded that Norfolk Naval Base will be strictly enforcing the existing restricted area defined at 33 CFR 334.300 during all Sail Virginia 2007 activities.

We recommend that vessel operators visiting the Port of Hampton Roads for this event obtain up to date editions of the following charts of the area: Nos. 12222, 12245, 12253, and 12254 to avoid anchoring within charted cable or pipeline areas.

With the arrival of Sail Virginia 2007 and spectator vessels in the Port of Hampton Roads for this event, it may be necessary to curtail normal port operations to some extent. Interference will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled events.

Because of the danger posed by numerous sailing vessels maneuvering in close proximity of each other during the parade, special local regulations are necessary. For the safety concerns noted

and to address the need for vessel control and vessel safety, all vessel traffic will be temporarily restricted in the vicinity of the parade to provide for the safety of participants, spectators and transiting vessels.

#### Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on specified waters of Chesapeake Bay, Thimble Shoal Channel, Hampton Roads, Elizabeth River, Norfolk Harbor Reach and Norfolk waterfront. The Parade of Sail will consist of naval vessels, private vessels, and tall ships that are scheduled to enter Thimble Shoal Channel at approximately 7:30 a.m. on June 8, 2007. The ships will rendezvous at Thimble Shoal Channel in the vicinity of Thimble Shoal lighted bell buoy "13" LLNR 9275, and will proceed inbound through Thimble Shoal Channel. The lead vessel is scheduled to be abreast of Old Point Comfort Light at approximately 9:30 a.m. The parade route includes Norfolk Harbor Entrance Reach, Norfolk Harbor Reach, Craney Island Reach, Lambert Bend, Port Norfolk Reach and Town Point Reach. The larger Sail Virginia 2007 vessels will be berthed in the vicinity of the respective downtown Norfolk and Portsmouth waterfronts as they complete the parade route.

A fleet of spectator vessels is anticipated to gather nearby to view the parade. Because of the danger posed by numerous sailing vessels maneuvering in close proximity of each other and the spectator vessels during the proposed marine event, special local regulations are necessary. In order to provide for the safety of parade participants and spectator vessels the Coast Guard proposes establishing a regulated area restricting all vessel traffic from maneuvering within 100 yards abeam of the parade, 300 yards ahead of the parade and all waters within the parade on June 8, 2007. The duration of the proposed Parade of Sail is anticipated to be approximately seven hours.

The proposed temporary special local regulations will be enforced from 6 a.m. to 3 p.m. on June 8, 2007 for the "Sail Virginia 2007" Parade of Sail. These regulations will restrict general navigation in the regulated area during the marine event. The Coast Guard, at its discretion, when practical, will allow the passage of vessels when the parade is not taking place. 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 during the enforcement period. These regulations are needed to control vessel

traffic during the event to enhance the safety of participants, spectators and transiting vessels.

In order to provide for the safety of vessels transiting the area or observing the fireworks display, the Coast Guard intends to implement the regulations found at 33 CFR 100.501 from 9 p.m. to 11 p.m. on June 9, 2007.

#### 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).

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

The primary impact of these regulations will be on vessels wishing to transit the affected waterways during the Parade of Sail. Although these regulations prevent traffic from transiting a portion of the Chesapeake Bay and Elizabeth River during this event, that restriction is limited to approximately seven hours in duration, affects only a limited area that is totally contained within an already established regulated navigation area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area. Moreover, the nature of the event itself may hamper or prevent transit of the waterway, even absent these regulations designed to ensure it is conducted in a safe and orderly fashion. 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 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 proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate or anchor in portions of the Chesapeake Bay, Hampton Roads, Elizabeth River, Norfolk Harbor from 7 a.m. until 3 p.m. June 8, 2007 during this event.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: this proposed rule would be in effect for only a limited period, affect only limited areas that are totally contained within an already established regulated navigation area, and marine advisories will be issued allowing mariners to adjust their plans accordingly. Vessel 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.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 U.S. Coast Guard Sector Hampton Roads, at 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 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 Commandant Instruction M16475.ID, and Department of Homeland Security Management Directive 5100.1 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. 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 discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for Part 100 is revised to read as follows:

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

2. Add a temporary § 100.35–T07–012 to read as follows:

### § 100.35–T07–012 Special Local Regulations; Sail Virginia 2007, Port of Hampton Roads, VA.

(a) *Regulated area.* The regulated area includes navigable waters within and 100 yards abeam of, 300 yards ahead of, and all waters between participating vessels transiting the Chesapeake Bay Thimble Shoal Channel, Hampton Roads Norfolk Harbor Entrance Reach, Elizabeth River Craney Island Reach, Lambert Bend, Lambert Bend to Pinner Point, Pinner Point to Town Point Reach, Town Point Reach to Norfolk Harbor, Virginia in support of the “Sail Virginia 2007” Parade of Sail marine event.

(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 Hampton Roads.

(2) *Official Patrol* means any person or vessel authorized by the Coast Guard Patrol Commander or approved by Commander, Coast Guard Sector Hampton Roads to enforce this special local regulation.

(3) *Sail Virginia 2007 Vessels* includes all vessels participating in Sail Virginia 2007 under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

(4) *Parade of Sail* is the inbound procession of Sail Virginia 2007 vessels as they navigate designated routes in the port of Hampton Roads on June 8, 2007.

(5) *Spectator vessel* includes any vessel, commercial or recreational, being used for pleasure or carrying passengers that are in the Port of Hampton Roads to observe part or all of

the events attendant to Sail Virginia 2007.

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

(4) 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 and near other persons and vessels.

(5) The Coast Guard vessels enforcing this section can be contacted on VHF-FM Marine Band Radio, Channels 13 and 16. Coast Guard Sector Hampton Roads can be contacted at telephone number (757) 638-6633.

(6) Coast Guard Sector Hampton Roads will notify the public of changes in the status of this section by Marine Safety Radio Broadcast on VHF-FM Marine Band Radio, Channel 22 (157.1 MHz).

(d) *Enforcement period.* This section will be enforced from 6 a.m. June 8, 2007, to 11 p.m. June 9, 2007.

Dated: March 8, 2007.

**Larry L. Hereth**

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

[FR Doc. E7-4937 Filed 3-16-07; 8:45 am]

BILLING CODE 4910-15-P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 223

[Docket No. 070122014-7057-02, I.D. 011907A]

RIN 0648-AV04

#### Endangered and Threatened Wildlife; Sea Turtle Conservation Requirements

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Advance notice of proposed rulemaking; extension of public comment period.

**SUMMARY:** In response to requests from members of the public, NMFS extends the public comment period on an

advance notice of proposed rulemaking (ANPR) regarding potential amendments to regulatory requirements for turtle excluder devices (TEDs) for an additional 60 days, through May 18, 2007, for the purpose of receiving comments on the ANPR, published in the **Federal Register** on February 15, 2007.

**DATES:** Comments will be accepted through May 18, 2007.

**ADDRESSES:** Written comments on the ANPR and requests for literature cited should be addressed to Michael Barnette, Southeast Regional Office, Office of Protected Resources, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701. Comments may also be sent via fax to 727-824-5309, via email to [0648-AV04@noaa.gov](mailto:0648-AV04@noaa.gov), or to the Federal eRulemaking portal: <http://www.regulations.gov> (follow instructions for submitting comments).

**FOR FURTHER INFORMATION CONTACT:**

Michael Barnette (ph. 727-824-5312, fax 727-824-5309, e-mail [Michael.Barnette@noaa.gov](mailto:Michael.Barnette@noaa.gov)), Ellen Keane (ph. 978-281-9300 x6526, fax 978-281-9394, e-mail [Ellen.Keane@noaa.gov](mailto:Ellen.Keane@noaa.gov)), or Tanya Dobrzynski (ph. 301-713-2322, fax (301) 427-2522, e-mail [Tanya.Dobrzynski@noaa.gov](mailto:Tanya.Dobrzynski@noaa.gov)).

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 15, 2007, NMFS published an ANPR regarding potential amendments to the regulatory requirements for TEDs (72 FR 7382). The ANPR announced that NMFS is considering amendments to the regulatory requirements for TEDs. Specific changes NMFS is considering include increasing the size of the TED escape opening currently required in the summer flounder fishery; requiring the use of TEDs in the flynet, whelk, calico scallop, and Mid-Atlantic sea scallop trawl fisheries; and moving the current northern boundary of the Summer Flounder Fishery-Sea Turtle Protection Area off Cape Charles, Virginia, to a point farther north. Other potential measures are also being considered. The objective of the proposed measures would be to effectively protect all life stages and species of sea turtle in Atlantic and Gulf of Mexico trawl fisheries where they are vulnerable to incidental capture and mortality. NMFS is seeking public comment on these potential amendments to the TED regulations. NMFS is also soliciting public comment on the need for, and development and implementation of, other methods to reduce bycatch of sea turtles in any commercial or

recreational fishery in the Atlantic and Gulf of Mexico where sea turtle conservation measures do not currently exist. That **Federal Register** notice initiated a 30-day public comment period scheduled to end on March 19, 2007.

NMFS subsequently received requests from the public to extend the comment period. These requests stated that more time is necessary to more fully review and provide comments on issues mentioned in the ANPR. In this document NMFS is extending the public comment period for an additional 60 days, until May 18, 2007, to allow additional time for these requesters and other interested parties to provide comments.

Dated: March 13, 2007.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. E7-4884 Filed 3-16-07; 8:45 am]

BILLING CODE 3510-22-P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[I.D. 030607C]

RIN 0648-AV39

#### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Amendment 13 to the Atlantic Sea Scallop Fishery Management Plan

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of a fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the New England Fishery Management Council (Council) has submitted Amendment 13 to the Atlantic Sea Scallop Fishery Management Plan (FMP) (Amendment 13), incorporating the public hearing document and the Initial Regulatory Flexibility Analysis (IRFA), for review by the Secretary of Commerce and is requesting comments from the public. The goal of Amendment 13 is to implement an observer service provider mechanism for the scallop fishery that would re-active the industry-funded observer