

Okęcie” S.A. Mandatory Bulletin No. 10409036, dated March 18, 2009; and PZL–104 Wilga 80 Maintenance Manual, pages 5–4 and 25–10, dated April 7, 2009, for related information.

#### Material Incorporated by Reference

(h) You must use EADS PZL “Warszawa-Okęcie” S.A. Mandatory Bulletin No. 10409036, dated March 18, 2009; and PZL–104 Wilga 80 Maintenance Manual, pages 5–4 and 25–10, dated April 7, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of PZL–104 Wilga 80 Maintenance Manual, pages 5–4 and 25–10, dated April 7, 2009, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On May 18, 2009 (74 FR 18979; April 27, 2009), the Director of the Federal Register previously approved the incorporation by reference of EADS PZL “Warszawa-Okęcie” S.A. Mandatory Bulletin No. 10409036, dated March 18, 2009.

(3) For service information identified in this AD, contact EADS–PZL “Warszawa-Okęcie” S.A., Aleja Krakowska 110/114, 00–971 Warszawa, Poland; telephone: +48 22 577 22 11; fax: +48 22 577 22 03; e-mail: eadspz@plz.eads.net; Internet: [http://www.eads.net/1024/en/businet/airbus/airbus\\_military/pzl/pzl.html](http://www.eads.net/1024/en/businet/airbus/airbus_military/pzl/pzl.html).

(4) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(5) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Kansas City, Missouri, on June 30, 2009.

**Scott A. Horn,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

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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:** Interim rule with request for comments.

**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 provide for the swimmers’ safety of life on the navigable waters of Great South Bay, NY. Entry into this regulated area is prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, CT.

**DATES:** This interim rule is effective July 23, 2009. Comments and related material must reach the Coast Guard on or before September 8, 2009.

**ADDRESSES:** You may submit comments identified by docket number USCG–2009–0302 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this interim rule, call or e-mail: MSTC Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203–468–4459, [christie.m.dixon@uscg.mil](mailto:christie.m.dixon@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:

#### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted under change to <http://www.regulations.gov> and will include any personal information you have provided.

#### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0302), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand delivery, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert “USCG–2009–0302” in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

#### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG–2009–0302 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

## Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

## Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting 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**.

## Regulatory Information

The Coast Guard is issuing this interim 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 interim rulemaking (NPRM) with respect to this rule because the delay or cancellation of this event in order to permit a notice period would be contrary to the public interest. In order to balance the tradition of the Cross Bay Swim and the concern for the swimmers' safety, a special local regulation is essential despite the limited time available for public notice and comment. While this is an annual event, the date for the 2009 swim and subsequent permit application were not received by the Coast Guard in sufficient time to allow for a full notice and comment period; therefore, the Coast Guard is issuing this interim rule with a request for comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. In order to balance the tradition of the Cross Bay Swim and the concern for the swimmers' safety, a special local regulation is essential despite the limited time available for public notice and comment. While this is an annual event, the date for the 2009

swim and subsequent permit application were not received by the Coast Guard in sufficient time to allow for a full notice and comment period; therefore, the Coast Guard is issuing this interim rule with a request for comments.

## Background and Purpose

The Cross Bay Swim has been successfully held on and off from the early 1900s 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. Currently there is no regulation in place to protect the swimmers or safety craft from the hazards imposed by passing water traffic and other water related activities.

To ensure the continued safety of the swimmers, safety craft and the boating public, the Coast Guard is establishing a special local regulation around the race course for the duration of the race, generally from 6:30 a.m. to 12:30 p.m. on the day of the race.

## Discussion of Rule

This regulation establishes a special local regulation on the navigable waters of Great South Bay, NY within 100 yards of the swim event race course which consists of the following points: Starting Point at the Fire Island Lighthouse Dock in approximate position 40°38'01" N 073°13'07" N, northerly through approximate points 40°38'52" N 073°13'09" N, 40°39'40" N 073°13'30" N, 40°40'30" N 073°14'00" N, and finishing at Gilbert Park, Brightwaters, NY at approximate position 40°42'25" N 073°14'52" N. This action will limit vessel traffic in this portion of Great South Bay, NY to provide for the safety of swimmers, swimmer safety craft and the boating community from the hazards posed by vessels operating near persons participating in this open water swim.

While the special local regulation will be permanent, it will only be active and enforceable for approximately six hours on a single specified day each July. Marine traffic that may safely do so, may transit outside of the area during the enforcement period, allowing navigation in all other portions of Great South Bay, NY not covered by this rule. Entry into this area would be prohibited unless authorized by the Captain of the Port, Long Island Sound or Designated On-scene Patrol Personnel. Any violation of the special local regulation described herein is punishable by,

among others, civil and criminal penalties, in rem liability against the offending vessel, and license sanctions.

## Regulatory Analyses

We developed this interim 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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This regulation may have some impact on the public, but the potential impact would be minimized for the following reason: Vessels may transit in all areas of Great South Bay, NY other than the area of the special local regulation with minimal increased transit time and the special local regulation will only be enforced for approximately 6 hours on a single specified day each July.

## 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 would not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit in those portions of Great South Bay, NY covered by the special local regulation. Although the special local regulation would apply to the entire width of the bay, traffic would be allowed to pass through the regulated area, outside 100 yards of any swimmer, with the permission of the Captain of the Port or Designated On-scene Patrol Personnel. Before the activation of the special local regulation, we would issue maritime advisories widely available to users of the

waterway. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities. 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 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: MSTC Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203–468–4459, *christie.m.dixon@uscg.mil*. 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 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 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This 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 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 would not create an environmental risk to health or risk to safety that might 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 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 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.ID, 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 which 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. This rule involves the promulgation of a special local regulation issued in conjunction with a marine event for which a permit is required. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### 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. Add § 100.124 to read as follows:

#### § 100.124: Maggie Fischer Memorial Great South Bay Cross Bay Swim, Great South Bay, New York.

(a) *Regulated area.* All navigable waters of Great South Bay, NY within 100 yards of the swim event race course which consists of the following points: Starting Point at the Fire Island Lighthouse Dock in approximate position 40°38'01" N 073°13'07" N, northerly through approximate points 40°38'52" N 073°13'09" N, 40°39'40" N 073°13'30" N, 40°40'30" N 073°14'00" N, and finishing at Gilbert Park, Brightwaters, NY at approximate position 40°42'25" N 073°14'52" N.

(b) *Definitions.* The following definition applies to this section: *Designated On-scene Patrol Personnel,* means any commissioned, warrant and petty officers of the U.S. Coast Guard operating Coast Guard vessels who have been authorized to act on the behalf of the Captain of the Port, Long Island Sound.

(c) *Special local regulation.* (1) No person or vessel may enter, transit, or remain within the regulated area during the effective period of regulation unless they are officially participating in the Maggie Fischer Memorial Great South Bay Cross Bay Swim event or are otherwise authorized by the Designated On-scene Patrol Personnel.

(2) All persons and vessels must comply with the instructions from Coast Guard Captain of the Port or the Designated On-scene Patrol Personnel. The Designated On-scene Patrol Personnel may delay, modify, or cancel the swim event as conditions or circumstances require.

(3) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(4) Persons and vessels desiring to enter the regulated area may request permission to enter from the designated on scene patrol personnel on VHF-16 or to the Captain of the Port, Long Island Sound via phone at (203) 468-4401.

(d) *Enforcement Period.* This rule is enforced from 6:30 a.m. to 12:30 p.m. on July 24th, 2009 and annually thereafter on a date in July to be specified in the Local Notice to Mariners and through marine broadcasts.

Dated: June 17, 2009.

**Daniel A. Ronan,**

*Captain, U.S. Coast Guard, Captain of the Port Long Island Sound.*

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BILLING CODE 4910-15-P

period of special local regulations for a recurring marine event in the Fifth Coast Guard District. These regulations apply to only one recurring marine event that conducts "workboat races". 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 a portion of the York River, VA, during the event.

**DATES:** This rule is effective from 9 a.m. to 5:30 p.m., on July 12, 2009, except that the suspension of line 41 in the table to § 100.501 is effective from July 12, 2009 to July 31, 2009.

**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-2009-0252 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0252 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. 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 temporary rule, call or e-mail Dennis Sens, Project Manager, Fifth Coast Guard District, Prevention Division, at 757-398-6204 or e-mail at [Dennis.M.Sens@uscg.mil](mailto:Dennis.M.Sens@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 May 12, 2009, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulation for Marine Event; Temporary Change of Dates for Recurring Marine Event in the Fifth Coast Guard District in the **Federal Register** (74 FR 22142). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The potential dangers posed by boat races operating in close proximity to transiting vessels make special local regulations necessary. 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. However, the Coast Guard will provide advance notifications to users of the affected waterways via marine information broadcasts, local notice to mariners, commercial radio stations and area newspapers.

**Background and Purpose**

Marine events are frequently held on the navigable waters within the boundary of the Fifth Coast Guard District. The on water activities that typically comprise marine events include sailing regattas, power boat races, swim races and holiday parades. For a description of the geographical area of each Coast Guard Sector—Captain of the Port Zone, please see 33 CFR 3.25.

This regulation proposes to temporarily change the enforcement period of special local regulations for a recurring marine event within the Fifth Coast Guard District. This proposed regulation applies to one marine event in 33 CFR 100.501, Table to § 100.501.

On July 12, 2009, the Watermen's Museum of Yorktown, Virginia will sponsor the "Watermen's Heritage Festival Workboat Races", on the waters of the York River near Yorktown, Virginia. The regulation at 33 CFR 100.501 is effective annually for this river boat race marine event. The event will consist of approximately 40 traditional Chesapeake Bay deadrise workboats racing along a marked straight line race course in heats of 2 to 4 boats for a distance of approximately 1,000 yards. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels. The regulation at 33 CFR 100.501 would be enforced for the duration of the event. Under provisions of 33 CFR 100.501, from 9 a.m. to 5:30 p.m. on July 12, 2009, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

**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

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[Docket No. USCG-2009-0252]

RIN 1625-AA08

**Special Local Regulation for Marine Event; Temporary Change of Dates for Recurring Marine Event in the Fifth Coast Guard District**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the enforcement