

automatically fail to satisfy the applicable requirements of section 408 or 408A. Instead, its status as an IRA will be determined by considering whether the account or the annuity satisfies the applicable requirements of sections 408 and 408A (including, in the case of individual retirement accounts, the prohibition against the commingling of assets under section 408(a)(5)). Also, if a deemed IRA fails to satisfy the requirements of a qualified IRA and the assets of the deemed IRA are held in a separate trust (or where the deemed IRA is an individual retirement annuity), the qualified employer plan will not fail the qualification requirements applicable to it under the Code solely because of the failure of the deemed IRA.

(h) *Definitions.* The following definitions apply for purposes of this section:

(1) *Qualified employer plan.* A *qualified employer plan* is a plan described in section 401(a), an annuity plan described in section 403(a), a section 403(b) plan, or a governmental plan under section 457(b).

(2) *Voluntary employee contribution.* A *voluntary employee contribution* is any contribution (other than a mandatory contribution within the meaning of section 411(c)(2)(C)) which is made by an individual as an employee under a qualified employer plan that allows employees to elect to make contributions to deemed IRAs and with respect to which the individual has designated the contribution as a contribution to which section 408(q) applies.

(3) *Employee.* An *employee* includes any individual who is an employee under the rules applicable to the qualified employer plan under which the deemed IRA is established.

(i) *Effective date.* This section applies to accounts or annuities established under section 408(q) on or after August 1, 2003.

## PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 5.** The authority citation for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805. \* \* \*

■ **Par. 6.** In § 602.101, paragraph (b) is amended by adding the following entry in numerical order to the table to read as follows:

CFR Part or section where identified and described							Current OMB control no.
	*	*	*	*	*	*	
1.408(q)–1 .....							1545–1841
	*	*	*	*	*	*	

Approved: July 14, 2004.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

**Gregory F. Jenner,**

*Acting Assistant Secretary of the Treasury.*  
[FR Doc. 04–16594 Filed 7–21–04; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

[CGD05–04–013]

RIN 1625–AA08

### Special Local Regulations for Marine Events; Maryland Swim for Life, Chester River, Chestertown, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent special local regulations for the “Maryland Swim for Life”, an annual marine event held on the waters of the Chester River near Chestertown, Maryland. This action is necessary to provide for the safety of life on navigable waters during the event.

This action is intended to restrict vessel traffic in portions of the Chester River during the event.

**DATES:** This rule is effective August 23, 2004.

**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 CGD05–04–013 and are available for inspection or copying at Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** S.L. Phillips, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398–6204.

### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On April 6, 2004, we published a notice of proposed rulemaking (NPRM) entitled “Special Local Regulations for Marine Events; Maryland Swim for Life, Chester River, Chestertown, MD” in the **Federal Register** (69 FR 18002). We received no letters commenting on the rule. No public hearing was requested, and none was held.

### Background and Purpose

The Maryland Swim for Life Association annually sponsors the “Maryland Swim for Life”, an open water swimming competition held on the waters of the Chester River, near Chestertown, Maryland. The event is held each year on the second Saturday in July. Approximately 120 swimmers start from Rolph’s Wharf and swim upriver 3 miles then swim down river returning back to Rolph’s Wharf. A fleet of approximately 25 support vessels accompanies the swimmers. To provide for the safety of participants and support vessels, the Coast Guard will restrict vessel traffic in the event area during the swim.

### Regulatory Evaluation

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. 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 regulation will prevent traffic from transiting a portion of the Chester River during the event, the effect 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 the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. The Coast Guard will also publish an annual notice of implementation in the **Federal Register** setting out the exact date of the event.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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 will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Chester River during the event.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for only one day each year. Before the enforcement period, we 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 (Public Law 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. We received no requests for assistance, and none was provided.

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).

#### **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 will 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 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 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 will 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 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 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 Commandant Instruction M16475.1D, 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 will 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 those sections. 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 § 100.533 to read as follows:

##### § 100.533 Maryland Swim for Life, Chester River, Chestertown, MD.

(a) *Regulated Area.* The regulated area is established for waters of the Chester River from shoreline to shoreline, bounded on the south by a line drawn at latitude 39°–10′–16″ N, near the Chester River Channel Buoy 35 (LLN–26795) and bounded on the north at latitude 39°–12′–30″ N by the Maryland S.R. 213 Highway Bridge. All coordinates reference Datum NAD 1983.

(b) *Definitions.* The following definitions apply to this section:

*Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

*Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(c) *Special local regulations:*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol; and

(ii) Proceed as directed by any Official Patrol.

(d) *Enforcement period.* This section will be enforced annually on the second Saturday in July. A notice of implementation of this section will be published annually in the **Federal Register** and disseminated through the Fifth District Local Notice to Mariners

and marine Safety Radio Broadcast on VHF–FM marine band radio channel 22 (157.1 MHz).

Dated: July 2, 2004.

**Sally Brice-O'Hara,**

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

[FR Doc. 04–16647 Filed 7–21–04; 8:45 am]

BILLING CODE 4910–15–P

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 100

[CGD05–04–024]

RIN 1625–AA08

##### Special Local Regulations for Marine Events; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending the special local regulations at 33 CFR 100.501, established for marine events held annually in the Norfolk Harbor, Elizabeth River, between Norfolk and Portsmouth, Virginia by changing the date on which the regulations are in effect for the marine event “Cock Island Race”. This action is intended to restrict vessel traffic in portions of the Elizabeth River during the start of the Cock Island Race. This action is necessary to provide for the safety of life on navigable waters during the event.

**DATES:** This rule is effective August 23, 2004.

**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 CGD05–04–024 and are available for inspection or copying at Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004 between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** S. L. Phillips, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398–6204.

##### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On March 3, 2004, we published a notice of proposed rulemaking (NPRM) entitled “Special Local Regulations for Marine Events; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, VA” in the **Federal**

**Register** (69 FR 9984). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

##### Background and Purpose

The regulations at 33 CFR 100.501 are effective annually for the duration of each marine event listed in Table 1 of section 100.501. Table 1 lists the effective date for the Cock Island Race as the third Saturday in July. For the past several years the event has been held on the third Saturday in June. The sponsor intends to hold this event annually on the third Saturday in June.

##### Regulatory Evaluation

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. 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. The effect of this action merely changes the date on which the existing regulations will be in effect and will not impose any new restrictions on vessel traffic.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will 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 will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Elizabeth River during the event.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will merely change the date on which the existing regulations will be in effect and will not