

will be open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the Administrative Record.

#### IV. Procedural Determinations

##### *Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on an analysis of the State submission.

##### *Executive Order 12866—Regulatory Planning and Review*

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

##### *Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

##### *Executive Order 13132—Federalism*

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to “establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.” Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be “in accordance with” the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations “consistent with” regulations issued by the Secretary pursuant to SMCRA.

##### *Executive Order 13175—Consultation and Coordination With Indian Tribal Governments*

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal regulation involving Indian lands.

##### *Executive Order 13211—Regulations that Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

##### *National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

##### *Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

##### *Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a

substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

##### *Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

##### *Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

##### **List of Subjects in 30 CFR Part 948**

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 9, 2008.

**Thomas D. Shope,**

*Regional Director, Appalachian Region.*

[FR Doc. E8–15438 Filed 7–7–08; 8:45 am]

**BILLING CODE 4310–05–P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

**[Docket No. USCG–2008–0422]**

**RIN 1625–AA00**

#### **Safety Zones: Central Massachusetts August Swim Events**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishing safety zones for two swimming events in the Captain of the Port Boston zone. This rule is intended

to restrict vessels from entering portions of the involved waterways during the respective events. The safety zones are necessary to protect participants and vessels from the hazards associated with a swim event.

**DATES:** Comments and related material must reach the Coast Guard on or before August 7, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2008-0422 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *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.

(3) *Hand delivery:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Chief Petty Officer Eldridge McFadden at 617-223-3000. 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, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

#### **Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG-2008-0422), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document

so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them 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. We may change this proposed rule in view of them.

#### **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> at any time. Enter the docket number for this rulemaking (USCG-2008-0422) in the Search box, and click "Go >>." You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or U.S. Coast Guard, Sector Boston, 427 Commercial St, Boston, MA 02109 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### **Privacy Act**

Anyone can search the electronic form of all 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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

#### **Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address 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**

Temporary safety zones are necessary to ensure the safety of vessels,

participants, and spectators at swimming events. Swim events pose a significant risk to the public because of the combination of numerous swimmers, high-speed vessels, and potentially congested waterways. A safety zone will reduce the risk to the public by separating swimmers from vessel traffic.

#### **Discussion of Proposed Rule**

The safety zones established are necessary to ensure the safety of vessels and people during events in the Captain of the Port Boston area of responsibility, which may pose a hazard to the public. The safety zones described in subparagraph (a) for this regulation will be enforced only immediately before and during the event. The Captain of the Port Boston will inform the public by all appropriate means including Broadcast Notice to Mariners, Local Notice to Mariners, and on-scene Coast Guard or Coast Guard Auxiliary units.

#### **Regulatory Analyses**

We developed this proposed 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 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Assessment is unnecessary.

The Coast Guard's implementation of these safety zones will be of short duration and designed to minimize the impact on navigable waters. These safety zones will only be enforced immediately before and during the time the swimmers are in the water. Furthermore, these safety zones have been designed to allow vessels to transit unrestricted to portions of the waterway not affected by the safety zone. The Coast Guard expects insignificant adverse impact to mariners from the activation of this safety zone.

#### **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 transit or anchor in the areas designated as safety zones in subparagraphs (a) during the date and time the safety zones are being enforced. These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zones in this proposed rule would be in effect for short periods, and will not preclude vessels from transit outside the zones.

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 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 Chief Petty Officer Eldridge McFadden at 617–223–3000. 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 M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. *Add temporary § 165.T01–0422 to read as follows: § 165.T01–0422 Safety Zones: Central Massachusetts August Swim Events.*

(a) *Location.* The following swim events include safety zones as described herein:

(1) *Plymouth Rock Triathlon, Plymouth Inner Harbor, Plymouth, MA*

(i) All waters of Plymouth Inner Harbor, from surface to bottom.

(ii) *Effective Date.* This rule will be enforced from 7:30 a.m. through 12:30 p.m. on August 31, 2008.

(2) *30th Annual Celebrate the Clean Harbor Swim, Gloucester Harbor, Gloucester, MA*

(i) All waters of Gloucester Harbor, from surface to bottom, within the zone marked by two buoys west of Niles Beach.

(ii) *Effective Date.* This rule will be enforced from 8:30 a.m. through 12:30 p.m. on August 16, 2008, with a rain date of August 17, 2008 at the same times.

(b) *Definition:* As used in this section, designated representative means any Coast Guard commissioned, warrant, or petty officer, or any federal, state, or local law enforcement officer authorized to enforce this regulation on behalf of the Coast Guard Captain of the Port (COTP).

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or remaining in the safety zones described in paragraph (a) of this section is prohibited unless authorized by the Coast Guard Captain of the Port (COTP), Boston, or the COTP's designated representative.

(2) Persons desiring to transit within the safety zones established in this section may contact the Captain of the Port at telephone number 617–223–3008 or via on-scene patrol personnel on VHF channel 16 to seek permission to do so. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: June 24, 2008.

**Gail P. Kulisch,**

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

[FR Doc. E8–15388 Filed 7–7–08; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### 36 CFR Part 7

#### Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management for Cape Hatteras National Seashore

**AGENCY:** National Park Service (NPS), Interior.

**ACTION:** Notice of Sixth, Seventh, Eighth and Ninth Meetings.

**SUMMARY:** Notice is hereby given, in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), of the sixth, seventh, eighth and ninth meetings of the Negotiated Rulemaking Advisory Committee for Off-Road Vehicle Management at Cape Hatteras National Seashore. (See **DATES** section.)

**DATES:** The Committee will hold its sixth meeting on September 8–9, 2008, from 8:30 a.m. to 5:30 p.m. on September 8, and from 8:30 a.m. to 4 p.m. on September 9. The meetings on both days will be held at the Avon Fire Hall, 40159 Harbor Drive, Avon, North Carolina 27915. The Committee will hold its seventh meeting on October 22–23, 2008, from 8:30 a.m. to 5:30 p.m. on October 22, and from 8:30 a.m. to 4 p.m. on October 23. The meetings on both days will be held at the Hatteras Village Civic Center, 56658 Highway 12, Hatteras, NC 27943. The Committee will hold its eighth meeting on November 14–15, 2008, from 8:30 a.m. to 5:30 p.m. on November 14, and from 8:30 a.m. to 4 p.m. on November 15. The meetings on both days will be held at the Clarion Hotel, 1601 South Virginia Dare Trail, Kill Devil Hills, NC 27948. The Committee will hold its ninth meeting on December 11–12, 2008, from 8:30 a.m. to 5:30 p.m. on December 11, and from 8:30 a.m. to 4 p.m. on December 12. The meetings on both days will be held at the Avon Fire Hall, 40159 Harbor Drive, Avon, North Carolina 27915.

These, and any subsequent meetings, will be held for the following reason: To work with the National Park Service to assist in potentially developing special regulations for ORV management at Cape Hatteras National Seashore.

The proposed agenda for the sixth, seventh, eighth and ninth meetings of the Committee may contain the following items: Approval of Meeting Summary from Last Meeting, Subcommittee and Members' Updates since Last Meeting, Alternatives Discussions, NEPA Update, and Public

Comment. However, the Committee may modify its agenda during the course of its work. The meetings are open to the public. Interested persons may provide brief oral/written comments to the Committee during the public comment period of the meetings each day before the lunch break or file written comments with the Park Superintendent.

#### FOR FURTHER INFORMATION CONTACT:

Mike Murray, Superintendent, Cape Hatteras National Seashore, 1401 National Park Drive, Manteo, North Carolina 27954, (252) 473–2111, ext. 148.

**SUPPLEMENTARY INFORMATION:** The Committee's function is to assist directly in the development of special regulations for management of off-road vehicles (ORVs) at Cape Hatteras National Seashore (Seashore). Executive Order 11644, as amended by Executive Order 11989, requires certain Federal agencies to publish regulations that provide for administrative designation of the specific areas and trails on which ORV use may be permitted. In response, the NPS published a general regulation at 36 CFR 4.10, which provides that each park that designates routes and areas for ORV use must do so by promulgating a special regulation specific to that park. It also provides that the designation of routes and areas shall comply with Executive Order 11644, and 36 CFR Sec. 1.5 regarding closures. Members of the Committee will negotiate to reach consensus on concepts and language to be used as the basis for a proposed special regulation, to be published by the NPS in the **Federal Register**, governing ORV use at the Seashore. The duties of the Committee are solely advisory.

Dated: June 9, 2008.

**Michael B. Murray,**

*Superintendent, Cape Hatteras National Seashore.*

[FR Doc. E8–15418 Filed 7–7–08; 8:45 am]

**BILLING CODE 4310–X6–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R05–OAR–2008–0952; FRL–8687–9]

#### Direct Final Approval of Revised Municipal Waste Combustor State Plan for Designated Facilities and Pollutants: Indiana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.