

National Environmental Policy Act process, either collectively or case-by-case. Further, no extraordinary circumstances exist to require preparation of an environmental assessment or environmental impact statement.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

Pursuant to Executive Order 13175 of November 6, 2000, "Consultation and Coordination with Indian Tribal Governments," we have consulted with tribal representatives throughout the negotiated rulemaking process. We have evaluated any potential effects on federally recognized Indian tribes and have determined that there are no potential adverse effects and have determined that this rule preserves the integrity and consistency of the relative need formula process we have used since 1993 to distribute IRR Program funds. We are making a change from previous years (which we also made for fiscal years 2000, 2001, 2002 and 2003 IRR Program funds (see **Federal Register** notices at 65 FR 37697, 66 FR 17073, 67 FR 44355 and 68 FR 33625)) to modify the FHWA Price Trends Report indices for non-reporting states which do not have current price trends data reports. The yearly FHWA Report is used as part of the process to determine the cost-to-improve portion of the relative need formula. Consultation with tribal governments and tribal organizations is ongoing as part of the TEA-21 negotiated rulemaking process.

List of Subjects in 25 CFR Part 170

Highways and roads, Indians—lands.

■ In order to distribute part of fiscal year 2004 IRR Program funds immediately we are amending part 170 in chapter I of title 25 of the Code of Federal Regulations as follows.

PART 170—ROADS OF THE BUREAU OF INDIAN AFFAIRS

■ 1. The authority citation for part 170 continues to read as follows:

Authority: 36 Stat. 861; 78 Stat. 241, 253, 257; 45 Stat. 750 (25 U.S.C. 47; 42 U.S.C. 2000e(b), 2000e-2(i); 23 U.S.C. 101(a), 202, 204), unless otherwise noted.

■ 2. Revise § 170.4b to read as follows:

§ 170.4b What formula will BIA use to distribute \$90 million of fiscal year 2004 Indian Reservation Roads Program funds?

On May 19, 2004, we will distribute \$90 million of fiscal year 2004 IRR Program funds authorized under the Surface Transportation Extension Act of 2003, Public Law 108-88, 117 Stat.

1110. We will distribute the funds to Indian Reservation Roads projects on or near Indian reservations using the relative need formula established and approved in January 1993. The formula has been modified to account for non-reporting States by inserting the latest data reported for those states for use in the relative need formula process.

David W. Anderson,

Assistant Secretary—Indian Affairs.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05-04-060]

RIN 1625-AA08

Special Local Regulations for Marine Events; Severn River, College Creek, and Weems Creek, Annapolis, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.518 for the U.S. Naval Academy Crew Races, marine events to be held April 17, April 24, and May 21, 2004, on the waters of the Severn River at Annapolis, Maryland. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the events. The effect will be to restrict general navigation in the regulated area for the safety of event participants, spectators and vessels transiting the event area.

DATES: 33 CFR 100.518 will be enforced from 5:30 a.m. to 10 a.m. on April 17, 2004, from 5:30 a.m. to 9 a.m. on April 24, 2004 and from 5 a.m. to 8 a.m. on May 21, 2004.

FOR FURTHER INFORMATION CONTACT: Ron Houck, Marine Information Specialist, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226-1971, (410) 576-2674.

SUPPLEMENTARY INFORMATION: The U.S. Naval Academy will sponsor crew races on the waters of the Severn River at Annapolis, Maryland. The events will consist of intercollegiate crew rowing teams racing along a 2000-meter course on the waters of the Severn River. A fleet of spectator vessels is expected to

gather near the event site to view the competition. In order to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.518 will be in effect for the duration of each event. Under provisions of 33 CFR 100.518, vessels may not enter the regulated area without permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will only be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: April 2, 2004.

Ben R. Thomason, III,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 04-11235 Filed 5-18-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05-03-156]

RIN 1625-AA08

Special Local Regulations for Marine Events; Nanticoke River, Sharptown, MD

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent special local regulations for an outboard racing regatta held annually on the waters of the Nanticoke River near Sharptown, Maryland. This action is necessary to provide for the safety of life on navigable waters during the event. This action will restrict vessel traffic in portions of the Nanticoke River during the event.

DATES: This rule is effective June 18, 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 CGD05-03-156 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 October 24, 2003 we published a notice of proposed rulemaking (NPRM) entitled "Special Local Regulations for Marine Events; Nanticoke River, Sharptown, MD" in the **Federal Register** (68 FR 60895). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

The North-South Racing Association sponsors an outboard racing regatta annually on the last Saturday and Sunday in June. The event consists of approximately 50 hydroplanes and runabouts conducting high-speed competitive races on the waters of the Nanticoke River between the Maryland S.R. 313 Highway Bridge and Nanticoke River Light 43 (LLN-24175). The races usually begin at 12 noon and conclude at 5 p.m. each day. A fleet of spectator vessels normally gathers nearby to view the event. To provide for the safety of participants, spectators and transiting vessels, the Coast Guard intends to temporarily restrict vessel movement in the event area before, during and after the event.

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 Nanticoke River during the event, the effect of this regulation 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. Additionally, vessel traffic will be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so.

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 Nanticoke 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 in effect for only two days each year. Vessel traffic will be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so. 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 proposed 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 would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This 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 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 does 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.

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 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). The "Environmental Assessment" and "Finding of No Significant Impact" is 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; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 100.532 to read as follows:

§ 100.532 Nanticoke River, Sharptown, MD.

(a) *Definitions:*

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.

Regulated Area includes all waters of the Nanticoke River, near Sharptown, Maryland, between Maryland S.R. 313 Highway Bridge and Nanticoke River Light 43 (LLN–24175), bounded by a line drawn between the following points: southeasterly from latitude 38°32'46" N, longitude 075°43'14" W, to

latitude 38°32'42" N, longitude 75°43'09" W, thence northeasterly to latitude 38°33'04" N, longitude 075°42'39" W, thence northwesterly to latitude 38°33'09" N, longitude 75°42'44" W, thence southwesterly to latitude 38°32'46" N, longitude 75°43'14" W. All coordinates reference Datum NAD 1983.

(b) *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.

(c) *Enforcement period.* This section will be enforced annually on the last Saturday and Sunday in June. Notice of the specific enforcement periods will be given via marine Safety Radio Broadcast on VHF–FM marine band radio channel 22 (157.1 MHz).

Dated: April 15, 2004.

Sally Brice-O'Hara,

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

[FR Doc. 04–11233 Filed 5–18–04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–98–043]

RIN 1615–AA00 (Formerly 2115–AA97)

Safety Zone: Atlantic Ocean, Vicinity of Cape Henlopen State Park, DE

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: In 1999, the Coast Guard established a safety zone in the Atlantic Ocean near Cape Henlopen State Park, Delaware. The zone was created to protect spectators and vessels from the potential hazards associated with the Delaware Aerospace Education Foundation launch of a Super Loki Meteorological Rocket from Cape Henlopen State Park on the second Saturday of May each year. Vessels may not enter the safety zone without permission of the Captain of the Port, Philadelphia. Because of a clerical error, this final rule was only referenced in the **Federal Register** in 1999 and not published in full text.

DATES: This final rule became effective on May 7, 1999. The rule has been enforced using actual notice since May 7, 1999, and is enforceable using constructive notice as of May 19, 2004.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Commanding Officer, USCG MSO/Group Office, 1 Washington Avenue, Philadelphia, PA 19147–4395, between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is (215) 271–4888.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Kevin Sligh or Ensign Jill Munsch, Waterways Management Branch, USCG MSO/Group Office, 1 Washington Avenue, Philadelphia, PA 19147–4395, telephone (215) 271–4889.

SUPPLEMENTARY INFORMATION:

Regulatory History

On February 8, 1999, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Atlantic Ocean, Vicinity of Cape Henlopen State Park, DE" in the **Federal Register** (64 FR 6006). The Coast Guard did not receive any comments on this proposed rulemaking. No public hearing was requested, and none was held.

Finding good cause under 5 U.S.C. 553(d)(3), the Coast Guard issued a final rule April 30, 1999, and made it effective less than 30 days after publication in the **Federal Register**. We noted that the next launch of the Super Loki Meteorological Rocket from Cape Henlopen State Park was scheduled for May 8, 1999, and that rather than publish a temporary final rule for 1999 and a final rule for all years thereafter, we made the final rule effective on May 7, 1999 because it was the most efficient solution. Delaying the effective date would have been contrary to the public interest as immediate action is necessary to restrict vessel traffic in the area, and protect mariners from the potential hazards associated with the launch.

The final rule was received at Coast Guard Headquarters on May 7, 1999, but was mistakenly designated for inclusion in a quarterly list of temporary final rules that expired before they could be published in full text in the **Federal Register**. Therefore, this final rule was referenced in a notice of temporary rules entitled "Safety Zones, Security Zones, and Special Local Regulations." (64 FR 72929, December 29, 1999). The final rule's docket number entry, however, was listed as "05–99–043" instead of "05–98–043" (64 FR 72931). The final rule was scanned as item 78 into our