

### How Did This Rule Amend the Department's Regulations?

This rule removed the Department's regulations at 22 CFR 41.42 that establish the crew list visa. By doing so, all crewmembers seeking to enter the United States in that capacity are required to apply for individual crew visas.

### Regulatory Findings

#### *Administrative Procedure Act*

The Department is publishing this rule as a final rule, after a 60-day provision for post-promulgation public comments and review, based on the "good cause" exceptions set forth at 5 U.S.C. 553(b)(3)(B) and 553(d)(3). It is dictated by the necessity to ensure that every effort is being made to screen out undesirable aliens; additionally, the Enhanced Border Security and Visa Entry Reform Act of 2002 (Pub. L. 107-173) requires that all visas issued after October 26, 2004 have a biometric indicator, which means crew list visas would necessarily be eliminated by that date.

#### *Regulatory Flexibility Act/Executive Order 13272: Small Business*

These changes to the regulations are hereby certified as not expected to have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

#### *The Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

#### *The Unfunded Mandates Reform Act of 1995*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UFMA), Public Law 104-4; 109 Stat. 48; 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule does not result in any such expenditure nor will

it significantly or uniquely affect small governments.

#### *Executive Order 13132: Federalism*

The Department finds that this regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Nor does the rule have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

#### *Executive Order 12866: Regulatory Review*

The Department of State considers this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. The Department submitted the interim rule to the Office of Management and Budget for its review and there is no change in the final rule.

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

The Department has reviewed the proposed regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

#### *The Paperwork Reduction Act of 1995*

This rule does not impose information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

### List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Passports, Visas.

In view of the foregoing, the interim final rule that amended 22 CFR Part 41 published on March 18, 2004 (69 FR 12797) is adopted as final.

Dated: June 10, 2004.

**Maura Harty,**

*Assistant Secretary for Consular Affairs,  
Department of State.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[CGD13-04-034]

RIN 1625-AA08

#### Special Local Regulations; Annual Kennewick, WA, Columbia Unlimited Hydroplane Races

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is restricting general navigation and anchorage on the Columbia River by establishing a special local regulation. The Captain of the Port, Portland, is taking this action to safeguard individuals from safety hazards associated with hydroplanes operating at a high rate of speed. Entry into the area established is prohibited unless authorized by the Captain of the Port.

**DATES:** This rule is effective from 6 a.m. on July 23, 2004, until 9 p.m. (P.d.t.) on July 25, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [CGD 13-04-034] and are available for inspection or copying at the U.S. Coast Guard MSO/Group Portland, 6767 N. Basin Ave, Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG Belen Audirsch, c/o Captain of the Port Portland, 6767 N. Basin Ave, Portland, OR 97217 at 503-240-9320.

#### **SUPPLEMENTARY INFORMATION:**

#### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and spectators gathering in the vicinity of the hydroplane races. If normal notice and comment procedures were followed, this rule would not become effective until after the dates of the event. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest. A final rule was published establishing this special local regulation in 1985

(CGD13-85-06, 50 FR 25071). A direct final rule was published in 1996 amending the rule published in 1985 to clarify the effective dates of the event and to revise the boundaries of the regulated area. This temporary final rule is required to again revise the size of the regulated area and to increase the length of time affected by the regulation.

### Background and Purpose

The Coast Guard is restricting general navigation and anchorage to allow for safe execution of the hydroplane races. This regulation will be enforced from 6 a.m. (P.d.t.) until 9 p.m. (P.d.t.) on July 23, 24, and 25, 2004. The restriction on general navigation and anchorage is necessary to protect spectators from hazards associated with hydroplanes operating at high rates of speed. This special local regulation will be enforced by representatives of the Captain of the Port, Portland, Oregon. The Captain of the Port may be assisted by other federal and local agencies.

### Discussion of Rule

This rule, for safety concerns, will control personnel and individual movements in a regulated area surrounding the Columbia Cup Unlimited Hydroplane Races. Entry into this zone is prohibited unless authorized by the Captain of the Port, Portland or his designated representative. Coast Guard personnel will enforce this special local regulation. The Captain of the Port may be assisted by other federal and local agencies.

### 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. The Coast Guard expects 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.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule will have a significant economic impact on a substantial number of small entities. The term "small entities" include 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 may be small entities: the owners or operators of vessels intending to transit the designated area at the corresponding time as drafted in this rule. This special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons. Traffic will be allowed to pass through the zone between race heats with the permission of the Captain of the Port or his designated representatives on scene, if safe to do so. Because the impacts of this rule are expected to be so minimal, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601-612) that this rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity 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 the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. 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 requirements 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 regulatory actions not specifically required by law. 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. Although this rule does 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 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(h) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

### 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. From 6 a.m. on July 23, 2004, until 9 p.m. on July 25, 2004, temporarily suspend 33 CFR 100.1303 and add temporary § 100.T13-001 to read as follows:

#### § 100.T13-001 Special Local Regulations; Annual Kennewick, Washington, Columbia Unlimited Hydroplane Races.

(a) This section is effective from 6 a.m. on July 23, until 9 p.m. on July 25, 2004.

(b) This section will be enforced from 6 a.m. until 9 p.m. each day it is effective, unless sooner cancelled by the Patrol Commander.

(c) This section restricts general navigation and anchorage during the hours it is enforced, on all waters of the Columbia River bounded by two lines drawn shore to shore; the first line running between position 46°14'50" N, 119°10'23" W and position 46°13'39" N, 119°10'34" W; and the second line running between position 46°13'36" N, 119°07'38" W and position 46°13'10" N, 119°07'49" W. [Datum: NAD 83]. Entry into this zone is a violation of regulations and may result in penalty action under the provisions of 33 CFR 100.35.

(d) When deemed appropriate, the Coast Guard may establish a patrol consisting of active and auxiliary Coast Guard personnel and vessels in the area described in paragraph (c) of this section. The patrol shall be under the direction of a Coast Guard officer or petty officer designated as Coast Guard Patrol Commander. The Patrol Commander is empowered to forbid and control the movement of vessels in the area described in paragraph (c) of this section.

(e) The Patrol Commander may authorize vessels to be underway in the area described in paragraph (c) of this section during the hours this regulation is enforced. All vessels permitted to be underway in the controlled area (other than racing or official vessels) shall do so only at speeds which will create minimum wake consistent with maintaining steerageway, and not to exceed seven (7) miles per hour. This speed limit may be adjusted at the discretion of the Patrol Commander to enhance the level of safety.

(f) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall comply with the orders of the patrol vessel personnel; failure to do so

may result in expulsion from the area, citation for failure to comply, or both.

Dated: July 14, 2004.

**Jeffrey M. Garrett,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA287-0458; FRL-7781-9]

### Revisions to the California State Implementation Plan, South Coast Air Quality Management District

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on March 22, 2004 and concern volatile organic compound (VOC) and ammonia (NH<sub>3</sub>) emissions from composting and related activities. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on August 20, 2004.

**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours by appointment. You can inspect copies of the submitted SIP revisions by appointment at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765-4182.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdb1.txt.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Jerald S. Wamsley, EPA Region IX, at