

Issued in Washington, DC, on February 2, 2004.

**John M. Allen,**

*Acting Director, Flight Standards Service.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 61, 91, 119, 121, 135, and 136

[Docket No. FAA-1998-4521; Notice No. 04-02]

RIN 2120-AF07

#### National Air Tour Safety Standards

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meeting on the Internet.

**SUMMARY:** On October 22, 2003, the FAA published a notice of proposed rulemaking (NPRM) that proposes regulations to govern commercial air tours throughout the United States. We are announcing an Internet public meeting to supplement the traditional comment period. The public meeting will help us consider the concerns of those who may be most affected by the proposed rule as we develop a final rule that will promote safety in the commercial air tour industry.

**DATES:** You may access the public meeting at any time beginning February 23, 2004, at 9 a.m. EST and ending on March 5, 2004, at 4:30 p.m. EST.

**ADDRESSES:** You may access the on-line public meeting at <http://www.faa.gov/avr/arm/rulemakingforum.cfm?nav=part>. Under the 'View Docket/Comments' column, click once on 'Enter Public Meeting.' Follow the instructions to participate in the discussion.

You may submit written comments to the docket, whether or not you participate in the public meeting. Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh St., SW., Washington, DC 20590-0001. You must identify the docket number FAA-1998-4521 at the beginning of your comments, and you should submit two copies of your comments. The public meeting on the Internet is intended to supplement the docket. A copy of the discussion from the public meeting will be submitted to the docket after the close of the public meeting.

You may also submit comments through the Internet to <http://dms/>

[dot.gov](http://dms.dot.gov). You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level at the Department of Transportation building at the address above. Also, you may review public dockets on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Alberta Brown, Air Transportation Division, Flight Standards Service, AFS-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8166; e-mail: [Alberta.Brown@faa.gov](mailto:Alberta.Brown@faa.gov).

#### SUPPLEMENTARY INFORMATION

##### Background

We published a notice of proposed rulemaking on October 22, 2003 (68 FR 60572) that proposes to regulate commercial air tours throughout the United States. The notice provided a 90-day comment period that was to end on January 20, 2004. We received significant response to this NPRM, including numerous requests to extend the comment period and to conduct a series of public meetings. On January 16, 2004, we published a notice to extend the comment period an additional 90 days to April 19, 2004 (69 FR 2529).

##### Public Meeting on the Internet

We have carefully considered the requests for a series of public meetings. Traditionally, public meetings have been useful when we have been able to identify a geographic area that may be most affected by a proposed rule. We could then supplement the comment period with a public meeting that would allow those most affected to express their views directly to FAA representatives. As of the date of this notice, we have received approximately 1,500 comments in docket FAA-1998-4521. Most of the comments are from individuals or small aviation businesses. The persons who submitted these comments are widely dispersed throughout the country, many of them in small communities. It would be impractical to conduct a public meeting in every community in America where someone could be affected by the proposed rule. If we were to choose to hold public meetings only in areas where large tour operators are located, they would have a disproportionate opportunity to participate, to the disadvantage of the many small

operators who have responded to this proposed rule.

The Internet allows us to overcome the barriers of geography and enables anyone with an Internet connection to participate in a public discussion of the issues. A further advantage of a public meeting on the Internet is that it is not limited by time. A traditional public meeting would be scheduled at a particular place, on a particular day, at a specific time. Anyone with a schedule conflict may be unable to participate. A public meeting on the Internet can be available 24 hours per day over a period of several weeks. A public meeting held on the Internet, like a traditional public meeting, provides the opportunity to obtain useful information from the public. It has the additional advantage of allowing much broader participation throughout the country. We have therefore decided to hold a public meeting on the Internet.

##### How the Public Meeting Will Be Conducted

To facilitate an organized and useful discussion of the issues, we will divide the discussion into three forums that will address specific areas of the proposed rule. The three forums will be:

1. *Community and charity events.* This forum will discuss portions of the proposed rule that may affect persons who provide aerial sightseeing rides for charitable purposes or at community events.
2. *Part 91 sightseeing in accordance with the 25-mile exception.* This forum will discuss portions of the proposed rule that may affect persons who are not currently required to obtain an operating certificate because they conduct nonstop sightseeing flights that begin and end at the same airport and are conducted within a 25-mile radius of that airport under the exception found in section 119.1(e)(2).
3. *Part 121 and part 135 commercial air tour operators.* This forum will include discussion of portions of the proposed rule that may affect commercial air tour operators who conduct tours with an air carrier certificate under part 119 and operate under the rules of part 121 or 135 of Chapter 14 of the Code of Federal Regulations.

It is possible that some may wish to participate in more than one forum within the public meeting. You can participate in as many forums as you wish. To focus the discussion and encourage responses that will help us address both safety issues and concerns of those affected by the proposed rule, in each forum we will solicit responses to specific questions. You will be able

to read the questions on-line and submit your answers and comments electronically. We will participate in the discussion throughout the 2-week forum and may ask you clarifying questions. While we have selected topics that we are particularly interested in, we still welcome all of your comments and suggestions. We will not make any commitments or draw any conclusions while the docket is open for public comment.

Issued in Washington, DC, on February 5, 2004.

**Anthony F. Fazio,**

*Director, Office of Rulemaking.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD13-04-002]

RIN 1625-AA00

#### Safety Zone Regulations, Seafair Blue Angels Air Show Performance, Lake Washington, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a safety zone on the waters of Lake Washington, Seattle, Washington. The Coast Guard is taking this action to safeguard participants and spectators from the safety hazards associated with the Seafair Blue Angels Air Show Performance. Entry into this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

**DATES:** Comments and related material must reach the Coast Guard on or before May 10, 2004.

**ADDRESSES:** You may mail comments and related material to Commanding Officer, Marine Safety Office Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134. Marine Safety Office Puget Sound maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Puget Sound between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT J. Argudo, c/o Captain of the Port Puget

Sound, 1519 Alaskan Way South, Seattle, WA 98134, (206) 217-6232.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD13-04-002), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, 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.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Puget Sound 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

The Coast Guard has issued temporary final rules establishing safety zones in the past for the Blue Angels Seafair Air Show Performance (*see, e.g.*, 68 FR 44888, July 31, 2003 (CGD13-03-023), 33 CFR 165T.13-014). The Blue Angels air show has become a permanent part of the Seafair events and takes place during the Seafair unlimited hydroplane races. The air show poses several dangers to the public including excessive noise and objects falling from any accidents by low flying aircraft. Permanent regulations already exist which restrict general navigation during the Seafair unlimited hydroplane races (33 CFR 100.1301). The proposed rule complements the existing regulations contained in 33 CFR 100.1301, which are intended to ensure public safety during Seafair.

##### Discussion of Proposed Rule

The Coast Guard proposes establishing a permanent safety zone on the waters of Lake Washington, Seattle, Washington, for the Seafair Blue Angels Performance. The Coast Guard, in consultation with the U.S. Navy and Federal Aviation Administration has determined it is necessary to close the

area in the vicinity of the air show in order to minimize the dangers that low-flying aircraft present to persons and vessels. These dangers include, but are not limited to excessive noise and the risk of falling objects from any accidents associated with low flying aircraft. In the event that an aircraft(s) requires emergency assistance, rescuers must have immediate and unencumbered access to the aircraft. The Coast Guard, through this action, intends to promote the safety of personnel, vessels, and facilities in the area of the Blue Angels air show. Entry into this zone will be prohibited unless authorized by the Captain of the Port or his representative. Coast Guard personnel will enforce this safety zone.

##### Regulatory Evaluation

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. It is not “significant” under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This expectation is based on the fact that the regulated area established by the proposed regulation would encompass an area near the middle of Lake Washington, not frequented by commercial navigation. The safety zone is also of limited time and duration. The regulation is established for the benefit and safety of the recreational boating public, and any negative recreational boating impact is offset by the benefits of allowing the Blue Angels to fly. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

##### 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.