

Scheduling matters are not subject to review by the Office of Management and Budget pursuant to provisions of Executive Order 12866, section 3(d)(1).

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This final rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$114,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

- Under the authority vested in the Attorney General by Section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100) and re-delegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator amends 21 CFR Part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

- 1. The authority citation for Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

- 2. Section 1308.11 is amended by:
- A. Redesignating existing paragraphs (d)(15) through (d)(32) as paragraphs (d)(16) through (d)(33),
- B. Adding a new paragraph (d)(15),
- C. Further redesignating paragraphs (d)(19) through (d)(33) as paragraphs (d)(20) through (d)(34),
- D. Adding a new paragraph (d)(19),
- E. Removing paragraphs (g)(3) and (g)(4) to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(15) Alpha-methyltryptamine (other name: AMT)—7432.

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(19) 5-methoxy-N,N-

diisopropyltryptamine (other name: 5-MeO-DIPT)—7439.

* * * * *

Dated: September 23, 2004.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 04-21755 Filed 9-28-04; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD13-04-039]

RIN 1625-AA08

Special Local Regulations for Marine Events, Strait Thunder Hydroplane Races, Port Angeles, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the Strait Thunder Hydroplane Races held on the waters of Port Angeles Harbor, Port Angeles, Washington. These special local regulations limit the movement of non-participating vessels in the regulated race area and provide for a viewing area for spectator craft. This rule is needed to provide for the safety of life on navigable waters during the event.

DATES: This rule is effective from 9 a.m. on October 1, 2004 through 5 p.m. on October 3, 2004 Pacific Daylight Time.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD13-04-039 and are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Jessica Hagen at (206) 217-6231.

SUPPLEMENTARY INFORMATION:

Background and Purpose

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The hydroplane race poses several dangers to the public including excessive noise, objects falling from any accidents, and hydroplanes racing at high speeds in proximity to other vessels. Accordingly, prompt regulatory action is needed in order to provide for the safety of spectators and participants during the event. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. The Coast Guard finds that good cause exists for not publishing an NPRM, because doing so would be contrary to the interests of public safety because immediate action is necessary to protect the public.

Under 5 U.S.C.(d)(3), for the same reasons cited above, the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**.

Discussion of Rule

This rule will create two regulated areas, a race area and a viewing area. These regulated areas restrict the movement of spectator, non-participant, vessels during hydroplane races. These regulated areas assist in minimizing the inherent dangers associated with hydroplane races. These dangers include, but are not limited to, excessive noise, race craft traveling at high speed in close proximity to one another and to spectator craft, and the risk of airborne objects from any accidents associated with hydroplanes. In the event that hydroplanes require emergency assistance, rescuers must have immediate and unencumbered access to the craft. The Coast Guard, through this action, intends to promote the safety of personnel, vessels, and facilities in the area. Due to these concerns, public safety requires these regulations to

provide for the safety of life on the navigable waters.

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. This expectation is based on the fact that the regulated area established by this rule encompasses an area near Port Angeles Harbor, not frequented by commercial navigation. 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 hydroplanes to race. This rule is effective from 9 a.m. on October 1, 2004 through 5 p.m. on October 3, 2004 Pacific Daylight Time. 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), the Coast Guard considered whether this 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. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit this portion of Port Angeles Harbor during the time this regulation is in effect. The zone will not have a significant economic impact due to its short duration and small area. The only vessels likely to be impacted will be recreational boaters and small passenger vessel operators. The event is held for the benefit and entertainment of those above categories. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) 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 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 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 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 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 rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to

incur direct costs without the Federal Government’s having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This 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 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 does not concern an environmental risk to health or risk to safety that may 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 not 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), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34)(h), of the Instruction, and “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 record keeping requirements, Waterways.

- For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100, as follows:

PART 100—MARINE EVENTS [AMENDED]

- 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 9 a.m. on October 1 through 5 p.m. on October 3, 2004, add temporary § 100.T13–002 to read as follows:

§ 100.T13–002 Special Local Regulations, Strait Thunder Hydroplane Races, Port Angeles, WA.

(a) **Regulated areas.** (1) The race area encompasses all waters located inside of a line connecting the following points located near Port Angeles, Washington: Point 1: 48°07'24" N, 123°25'32" W; Point 2: 48°07'26" N, 123°24'35" W; Point 3: 48°07'12" N, 123°25'31" W; Point 4: 48°07'15" N, 123°24'34" W. [Datum: NAD 1983].

(2) The spectator area encompasses all waters located within a box bounded by the following points located near Port Angeles, Washington: Point 1: 48°07'32" N, 123°25'33" W; Point 2: 48°07'29" N, 123°24'36" W; Point 3: 48°07'24" N, 123°25'32" W; Point 4: 48°07'26" N, 123°24'35" W. [Datum: NAD 1983].

(b) **Definitions.** (1) For the purposes of 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 Group Port Angeles. The Coast Guard Patrol Commander is empowered to control the movement of vessels in the regulated area.

(2) For the purposes of this section, *Patrol Vessel* means any Coast Guard vessel, Coast Guard Auxiliary vessel, or

other federal, state or local law enforcement vessel.

(c) **Special Local Regulations.** (1) From 9 a.m. on October 1, 2004 through 5 p.m. on October 3, 2004, non-participant vessels are prohibited from entering the race area unless authorized by the Coast Guard Patrol Commander.

(2) Spectator craft may remain in the designated spectator area but must follow the directions of the Coast Guard Patrol Commander. Spectator craft entering, exiting or moving within the spectator area must operate at speeds that will create a minimum wake, and not exceed seven knots. The maximum speed may be reduced at the discretion of the Coast Guard Patrol Commander.

(3) A succession of sharp, short signals by whistle or horn from a Patrol Vessel will serve as a signal to stop. Vessels signaled must stop and comply with the orders of the Patrol Vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) The Coast Guard Patrol Commander may be assisted by other federal, state and local law enforcement agencies in enforcing this regulation.

Dated: September 22, 2004.

J.M. Garrett,

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

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BILLING CODE 4910–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 219

National Forest System Land and Resource Management Planning; Use of Best Available Science in Implementing Land Management Plans

AGENCY: Forest Service, USDA.

ACTION: Final rule; Interpretation.

SUMMARY: The Department of Agriculture is adopting this interpretative rule to clarify the intent of the transition section of the planning regulations regarding the consideration and use of the best available science to inform project decision making that implements a land management plan and, as appropriate, plan amendments.

DATES: This interpretative rule is effective September 29, 2004.

ADDRESSES: Written inquiries about this interpretative rule may be sent to the Director, Ecosystem Management Coordination Staff, USDA Forest Service, 1400 Independence Ave., SW.,

Mailstop Code 1104, Washington, DC 20250–1104.

FOR FURTHER INFORMATION CONTACT:

Dave Barone, Planning Specialist, Ecosystem Management Coordination Staff, Forest Service, USDA, (202) 205–1019; Fax (202) 205–1012.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture is clarifying the effect of the transition provisions of the National Forest System land and resource management planning regulation at 36 CFR part 219 (65 FR 67514) adopted on November 9, 2000 (2000 planning rule). The transition provisions govern National Forest System planning during the transition period originally set forth in the 2000 planning rule and amended by interim final rules promulgated on May 17, 2001 (66 FR 27552), and May 20, 2002 (67 FR 35431).

Section 219.35(a) of the transition provisions requires the responsible official, during the transition period, to consider the best available science in implementing and, if appropriate, in amending existing plans. Section 219.35(b) currently allows the responsible official, during this period, to elect to prepare plan amendments and revisions using the provisions of the 1982 planning rule. Section 219.35(d) currently exempts projects implementing land and resource management plans from compliance with the substantive provisions of the 2000 planning regulation during the transition period.

The transition period began on November 9, 2000. The May 17, 2001 and May 20, 2002 interim final rules amended the 2000 planning rule to extend the transition period until final adoption of the proposed revision to the 2000 planning rule published on December 6, 2002 (67 FR 72770). During this period, while the substantive provisions of the 2000 rule are not binding, the transition provisions remain in effect.

Considerable uncertainty has arisen regarding the impact of the 2000 planning rule and the transition provisions. Some courts have properly determined the 1982 planning rule is no longer in effect. Others, however, have enforced its provisions. See, e.g., *Forest Watch v. United States Forest Service*, 322 F.Supp. 2d 522 (D. Vt. 2004) (“Applicable regulations require the Forest Service to ‘consider the best available science’ when implementing the forest plan,” citing 36 CFR 219.35(a)); *Clinch Coalition v. Damon*, 316 F.Supp. 2d 364, 381 (W.D.Va. 2004) (suggesting that the 1982 planning rule could not be applied to a 2001 decision,