

governmental jurisdictions subject to regulation.” To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

This final rule will provide minor cost savings to small part 121 operators. Therefore, the FAA Administrator certifies this action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreements Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and has determined that it will provide cost savings to domestic operators and will not impose any costs on international entities, and thus has a neutral trade impact.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104-4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation). The FAA currently uses an inflation-adjusted value of \$120.7 million in lieu of \$100 million.

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this regulation.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of

Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312d and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 18, 2001). We have determined that it is not a “significant energy action” under the executive order because it is not a “significant regulatory action” under Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 14 CFR Part 121

Air Carriers, Aircraft, Airmen, Aviation Safety, Charter Flight, Safety, Transportation.

Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends part 121 of the Federal Aviation Regulations (14 CFR part 121) as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105, 46301.

§ 121.333 [Amended]

■ 2. Amend § 121.333 by:

■ a. Changing the word “shall” to “must” wherever it appears in the section; and

■ b. By removing the reference in paragraph (c) to “flight level 250” wherever it appears and inserting the reference to “flight level 350” in its place.

Issued in Washington, DC on November 4, 2005.

Marion C. Blakey,
Administrator.

[FR Doc. 05–22456 Filed 11–9–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD07–05–116]

RIN 1625-AA08

Special Local Regulations: Offshore Super Series Boat Race, St. Petersburg Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for the Offshore Super Series Boat Race in St. Petersburg Beach, Florida, in the vicinity of the Don Cesar Hotel. This event will be held November 16th, 17th, 19th, and 20th, 2005 between 11 a.m. and 5 p.m. EDT (Eastern Daylight Time). Historically, there have been approximately 400 participant and spectator craft. The nature of high speed boats traveling at speeds in excess of 130 miles per hour creates an extra or unusual hazard in the navigable waters of the United States. This rule is necessary to ensure the safety of life for the participating vessels, spectators, and mariners in the area on the navigable waters of the United States.

DATES: This rule is effective from 10:30 a.m. on November 16, 2005 through 5:30 p.m. on November 20, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD07–05–116] and are available for inspection or copying at Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa, Florida 33606–3598 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade Jennifer Andrew at Coast Guard Sector St. Petersburg, Prevention Department, (813) 228–2191, Ext. 8203.

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), the Coast Guard finds that good cause exists for not publishing an NPRM. The details surrounding the final date and location of the Offshore Super Series Boat Race were not determined until recently due to the required consults with environmental partners and event sponsors. Therefore, we did not have sufficient time to publish an NPRM. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to minimize potential danger to the public and participants during the Offshore Super Series Boat Race. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the regulation. Additionally, Coast Guard assets will be on scene and they will also provide notice of the regulation to mariners.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Offshore Super Series Incorporated will sponsor an offshore powerboat race on the near-shore waters of St. Petersburg Beach, Florida, in the vicinity of the Don Cesar Hotel. The event is scheduled for November 16, 17, 19, and 20, 2005 between 11 a.m. and 5 p.m. EDT (Eastern Daylight Time). The event will host approximately 50 participant vessels that travel at speeds in excess of 130 mph and approximately 350 spectator craft. This regulation is needed to provide for the safety of life on the Navigable waters of the United States during the Offshore Super Series Boat Race on the near-shore waters of St. Petersburg Beach, Florida, in the vicinity of the Don Cesar Hotel. The anticipated concentration of spectator and participant vessels associated with the event poses a safety concern, which is addressed in this special local regulation.

Discussion of Rule

This rule includes a regulated area approximately 1,000 feet around the racecourse in all directions that prohibits all non-participant vessels and persons from entering the regulated area from 10:30 a.m. to 5:30 p.m. on November 16, 17, 19, and 20, 2005. This regulation is intended to provide for the safety of life on the navigable waters of the United States for event participants

and for mariners traveling in the vicinity of the near-shore waters of St. Petersburg Beach, Florida, in the vicinity of the Don Cesar Hotel.

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). The Coast Guard expects the impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary because the safety zone will only be in effect for a limited period of time. Moreover, vessels may enter with the express permission of the Captain of the Port of St. Petersburg or his designated representative.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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.

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 may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the near-shore waters of St. Petersburg Beach, Florida, in the vicinity of the Don Cesar Hotel from 10:30 a.m. to 5:30 p.m. on November 16, 17, 19, and 20, 2005. This regulated area will not have a significant economic impact on a substantial number of small entities as this rule will be in effect for a limited period of time in an area where vessel traffic is extremely low. Additionally, vessel traffic may be allowed to enter the regulated area with the expressed permission of the Captain of the Port of St. Petersburg or his designated representative.

Assistance for Small Entities

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 does not create 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.

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

We have analyzed this rule under Commandant Instruction M16475.ID, 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), of the

Instruction, from further environmental documentation. An “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 recordkeeping requirements, waterways.

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

PART 100—MARINE EVENTS & REGATTAS

■ 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. A new temporary section 100.35T–07–116 is added to read as follows:

§ 100.35T–07–116 Offshore Super Series Boat Race; St. Petersburg Beach, FL.

(a) *Regulated Area.* The regulated area for the Offshore Super Series Boat Race encompasses all waters of St. Petersburg Beach, Florida in the vicinity of the Don Cesar Hotel, located within a line connecting the following points (NAD 83):

- 1: 27°43'26" N, 82°44'35" W;
- 2: 27°43'37" N, 82°46'03" W;
- 3: 27°43'12" N, 82°46'12" W;
- 4: 27°41'27" N, 82°45'32" W.
- 5: 27°41'14" N, 82°44'20" W; along the contour of the shore and returning to point 1.

(b) *Special local Regulations.* Non-participant vessels and persons are prohibited from entering the Regulated Area as defined in paragraph (a) unless authorized by the Coast Guard Patrol Commander or their designated representative.

(c) *Enforcement Period.* This rule will be enforced from 10:30 a.m. to 5:30 p.m. on November 16, 17, 19, and 20, 2005.

(d) *Effective Period.* This rule is effective from 10:30 a.m. on November 16, 2005 through 5:30 p.m. on November 20, 2005.

Dated: October 28, 2005.

D. B. Peterman,

RADM, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 05–22390 Filed 11–9–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–05–049]

RIN 1625–AA09

Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, VA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations that govern the operation of the Berkley Bridge across the Eastern Branch of the Elizabeth River, mile 0.4, in Norfolk, Virginia. The final rule will extend the morning and evening rush hour closure periods so that the morning rush hour period starts at 5 a.m. and ends at 9 a.m., and the evening rush hour starts at 3 p.m. and ends at 7 p.m., Monday through Friday, except Federal holidays. The rule will also reduce the deep-draft commercial vessel requirement to 18 feet and the advance notice period to 6 hours. This change will relieve vehicular traffic congestion during the weekday rush hours while still providing for the reasonable needs of navigation.

DATES: This rule is effective December 12, 2005.

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 CGD05–05–049 and are available for inspection or copying at Commander (obr), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Gary S. Heyer, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398–6629.

SUPPLEMENTARY INFORMATION:

Regulatory History

On June 8, 2005, we published a notice of proposed rulemaking (NPRM) entitled “Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, VA” in the **Federal Register** (70 FR 33405). We received two comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

On behalf of the City of Norfolk, the Virginia Department of Transportation