

■ 2. Table Four, Paragraph 15 of § 706.2 is amended by adding, in numerical order, the following entry for USS KIDD:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

| Vessel         | Number        | Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction |
|----------------|---------------|-------------------------------------------------------------------------------------------------|
| USS KIDD ..... | DDG 100 ..... | 1.89 meters.                                                                                    |
| * .....        | * .....       | * .....                                                                                         |

■ 3. Table Four, Paragraph 16 of § 706.2 is amended by adding, in numerical order, the following entry for USS KIDD:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

| Vessel         | Number        | Obstruction angle relative ship's headings |
|----------------|---------------|--------------------------------------------|
| USS KIDD ..... | DDG 100 ..... | 107.67° thru 112.50°.                      |
| * .....        | * .....       | * .....                                    |

■ 4. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for USS KIDD:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

TABLE FIVE

| Vessel         | Number        | Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f) | Forward mast-head light not in forward quarter of ship. Annex I, sec. 3(a) | After mast-head light less than 1/2 ship's length aft of forward mast-head light. Annex I, sec. 3(a) | Percentage horizontal separation attained |
|----------------|---------------|--------------------------------------------------------------------------------|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|-------------------------------------------|
| USS KIDD ..... | DDG 100 ..... | X                                                                              | X                                                                          | X                                                                                                    | 14.4                                      |
| * .....        | * .....       | * .....                                                                        | * .....                                                                    | * .....                                                                                              | * .....                                   |

Approved: July 14, 2006.

**Gregg A. Cervi,**

*Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[CGD13-06-007]

RIN 1625-AA08

**Special Local Regulation: Annual Dragon Boat Races, Portland, OR**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a permanent special local regulation for the Dragon Boat Races

held annually on the second Saturday and Sunday of June on the waters of the Willamette River, Portland, Oregon. These special local regulations limit the movement of non-participating vessels in the regulated race area. This rule will provide for the safety of life on navigable waters during the event. This rule will also remove special local regulations for the formerly-annual, Clarkston, Washington, Limited Hydroplane Races which no longer occur on a regular basis.

**DATES:** This rule is effective June 10, 2006.

**ADDRESSES:** 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 [CGD13-06-007] and are available for inspection or copying at U.S. Coast Guard Sector Portland between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

MST1 Charity Keuter, c/o Captain of the Port Portland, 6767 N. Basin Ave, Portland, OR 97217-3992, and (503)240-9311

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On March 21, 2006, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulation: Annual Dragon Boat Races, Portland, OR in the **Federal Register** (71 FR 14132). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, support craft, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. However advance notifications will be made to users of the waterway via marine information broadcasts and area newspapers.

**Background and Purpose**

We are revising 33 CFR 100.1302 because the annual Clarkston, Washington, Limited Hydroplane Races are no longer an event which occurs with any regularity. These races have not been conducted for at least 5 years and the sponsor has stated that they are no longer conducted. We are rewriting § 100.1302 for an event, the Dragon Boat Races in Portland, Oregon, that takes place annually and would benefit from a permanent rule.

This event may result in a number of recreational vessels congregating near the boat races. The regulated area is needed to protect event participants. Dragon Boats have very little freeboard and are susceptible to swamping. Accordingly, regulatory action is needed in order to provide for the safety of spectators and participants during the event.

**Discussion of Comments and Changes**

No comments or letters were received in response to the NPRM. Therefore, we made no changes from the proposed rule except to add a definition of the "race area" to clarify where it was located within the regulated area.

**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 the regulation will encompass a small portion of the river for eighteen hours over two days.

**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 would not have a significant economic impact on a substantial number of small entities. This regulated area will not have significant economic impact on a substantial number of small entities for the following reasons: This rule will be enforced for only 18 hours annually and vessel traffic will be allowed to safely pass around the race area and through the remainder of the regulated area with a "no wake" zone enforced.

**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 Petty Officer Charity Keuter at (503) 240-9301. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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 that Order and have determined that it does not have implications for federalism. No comments were received.

**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 would 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. 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. Under figure 2–1, paragraph (34)(h), of the Instruction, 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—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. Revise § 100.1302 to read as follows:

#### § 100.1302 Special Local Regulation, Annual Dragon Boat Races, Portland, Oregon.

(a) *Regulated area.* All waters of the Willamette River shore to shore, bordered on the north by the Hawthorne Bridge, and on the south by the Marquam Bridge.

(b) *Definition.* For purposes of this section, *race area* means an area 536-meters-long by 80-feet-wide designated by buoys and floatation line markers within the regulated area described in paragraph (a) of this section. The buoys have 4-foot poles attached to them. Two of the buoys are red, one is white, and the other is yellow. The course runs from the north side of the Hawthorne bridge south along the east bank to the east most pier of the Markham bridge and from the south side of the Markham bridge to the east pier of the center span. The center span is left open to allow commercial traffic through during the event. The course then continues from the west Pier of the center span and to the first pier west on the south side of the piers and continues north and ends at River Place dock.

(c) *Enforcement period.* The event is a two-day event which will be enforced from 8 a.m. (PDT) to 5 p.m. (PDT) on the second Saturday and Sunday of June each year. In 2006, this section will be enforced from 8 a.m. until 5 p.m. on Saturday, June 10, and Sunday, June 11.

(d) *Special local regulation.* (1) Non-participant vessels are prohibited from entering the race area unless authorized by the Coast Guard Patrol Commander.

(2) All persons or vessels not registered with the sponsor as participants or not part of the regatta patrol are considered spectators. Spectator vessels must be moored to a waterfront facility in a way that will not interfere with the progress of the event or have permission to enter the area from the event sponsor or Coast Guard patrol commander. Spectators must proceed at a safe speed as not to cause a wake. This requirement will be strictly enforced to preserve the safety of both life and property.

(3) A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels signaled shall stop and shall 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: May 30, 2006.

**R.R. Houck,**

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

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[EPA–HQ–OPP–2006–0552; FRL–8075–8]

#### Butene, Homopolymer; Tolerance Exemption

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

**ACTION:** Final rule.

**SUMMARY:** This regulation revises the exemption from the requirement of a tolerance for residues of butene, homopolymer when used as an inert ingredient in a pesticide chemical formulation. Miller Chemical and Fertilizer Corporation submitted a petition to EPA under the Federal Food,