

consistent with the FAA's intent and with the certification practice both before and after the adoption of the 2000 final rule.

#### Discussion of Comments

Two comments were received in the docket during the comment period for this final rule. The Boeing Company expressed concern with a possible increase in administrative burden of establishing the certification basis for changes it believes are significant at the product level. Transport Canada (TCCA) commented that it believes the final rule changes the significance of the assessment of the design change level relative to the entire product.

Boeing provided recommendations for changes to the preamble to the final rule regarding § 21.101 and to the final rule in general that it believes will reestablish and clarify the original intent of the regulation and concerns regarding the associated administrative burden to applicants. The FAA has considered Boeing's concerns and has determined that Boeing's recommendations need to be further evaluated before adoption. The FAA believes the original intent of the 2012 final rule as published is acceptable for clarifying an applicant's responsibility for showing compliance for the change and the areas affected by the change.

TCCA suggested that the final rule now has the unintended consequence of allowing a design change to be evaluated at an area, system, component, equipment, or appliance level only, rather than at the product level. TCCA further suggested that the final rule may lead to an interpretation that multiple design changes could now be evaluated individually for their significance, instead of their total effect on the product. TCCA believes the final rule will put into question the interpretation of what a significant change is and recommends that the FAA reconsider the rendering of the final rule. TCCA noted that implementation of the final rule may disrupt the harmonized implementation of pertinent regulations and guidance material.

The FAA agrees that the evaluation of a proposed design change needs to be at the product level and considered the effect of the final rule as it applied to product level and the evaluation of changes. However, it appears TCCA may have misunderstood the purpose and effect of the amendment and, as a result, conflated two separate issues. The first issue is the scope of the requirement of § 21.101 to show compliance. Prior to the amendment, § 21.101(a) required that the "changed product" must be

shown to meet applicable requirements in effect on the date of application. "Product" is defined in § 21.1 to mean "aircraft, aircraft engine, or propeller." Taken literally, the scope of the requirement to show compliance was the entire product, including the applicant's proposed change. In practice, applicants do not show that the entire product complies with applicable requirements; their compliance showings, and the FAA's findings, relate only to the proposed change and the areas affected by the change. The purpose of this amendment is simply to conform the wording of the rule to this long-standing practice.

The second issue is what requirements are applicable. Prior to this amendment, § 21.101(b) and (c) allowed the compliance showing to be made to earlier versions of the latest requirements if certain conditions are met. However, taken literally, these exceptions still required that the applicant show that the entire product complies at least with earlier versions of those requirements. Limiting the scope of this requirement eliminates the literal requirement to show compliance for areas not affected by the change.<sup>1</sup>

However, nothing in this amendment changes the exceptions in § 21.101(b) and (c) or the policies that have been developed for applying them. For example, the harmonized policy for determining whether a change is "significant" is that this evaluation is done at the "product level." Under this amendment, this policy is unchanged. Similarly, precisely identifying the scope of an applicant's obligation to show compliance does not affect the existing requirement of § 21.101(b)(1) that significance be evaluated in context with all previous relevant design changes. We continue to agree with TCCA's view that "the contribution to safety and practicality principles of 14

<sup>1</sup> Even within "areas affected by the change," there may be an "area, system, component, equipment, or appliance" that is not affected. Section 21.101(b)(2) allows applicants to show that these meet the requirements of earlier amendments. For example, in the preamble to the final rule, we cited the following example of "areas affected by the change": "changing an airframe's structure, such as adding a cargo door in one location, may affect the frame or floor loading in another area." But even within these broad areas, an applicant may be able to show that certain portions of the area are not affected (e.g., wiring in the area may not be affected). As another example, if a passenger seat fitting is changed, the structure of the seat is affected, and thus §§ 25.561 and 25.562 would need to be addressed (and probably some other structural requirements). However, the seat fabric is not affected, so § 25.853 would not need to be addressed. This would allow the applicant to show that these sub-areas meet earlier versions of the applicable amendments.

CFR 21.101 are intended to target a measurable benefit at a product level."

The FAA finds that the original intent of the existing changed product final rule to apply to the evaluation of the change's particular effect on the total product level is maintained with this final rule. This rule is consistent with the preamble's goals and published guidance and is implemented as published on December 4, 2012.

#### Conclusion

After analyzing the comments submitted in response to this final rule, the FAA has determined that further revisions to it are unnecessary at this time. This determination is based on our finding that this final rule is necessary because it addresses the concern that the wording of the requirement in the 2000 rule for a compliance showing was too broad for an applicant for a major design change. Again, this rulemaking only clarifies the original intent of the 2000 final rule and makes the applicable requirements reflect the reality of existing practice. This rulemaking is not a departure from or addition to what is already being done by an applicant for a compliance showing to the FAA in this regard.

Issued in Washington, DC, on March 4, 2013.

**Frank P. Paskiewicz,**

*Deputy Director, Aircraft Certification Service.*

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**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG-2012-1079]

RIN 1625-AA08

#### Special Local Regulation; 2013 International Rolex Regatta; St. Thomas Harbor; St. Thomas, U.S. Virgin Islands

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing special local regulations on the waters of St. Thomas Harbor in St. Thomas, U. S. Virgin Islands during the 2013 International Rolex Regatta, a series of sail boat races. The event is scheduled to take place on Friday, March 22, 2013 through Sunday, March 24, 2013. Approximately 65 sail boats will be participating in the races. It is

anticipated that approximately 20 spectator vessels will be present during the races. These special local regulations are necessary to ensure the safety of race participants, participant vessels, spectators, and the general public on the navigable waters of the United States during the event. The special local regulation establishes a race area, where all persons and vessels, except those persons and vessels participating in the sail boat races, are prohibited from entering, transiting through, anchoring in, or remaining within unless authorized by the Captain of the Port San Juan or a designated representative.

**DATES:** This rule will be effective from 11 a.m. Friday, March 22, 2013 through 2 p.m. Sunday, March 24, 2013.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG-2012-1098. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Chief Warrant Officer Anthony Cassisa, Sector San Juan Prevention Department, Coast Guard; telephone (787) 289-2073, email [Anthony.J.Cassisa@uscg.mil](mailto:Anthony.J.Cassisa@uscg.mil). If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**Table of Acronyms**

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

**A. Regulatory History and Information**

The Coast Guard published a notice of proposed rulemaking (NPRM) on February 4, 2013, in the **Federal Register** (78 FR 7663). The Coast Guard received no public comments in the docket and no requests for public meetings.

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**. The Coast Guard did not receive information from the event sponsor early enough to both publish a NPRM and allow 30 days after publication before making this rule effective. The Coast Guard chose to notify the public and seek comment on this rule by publishing a NPRM. This final rule is necessary to protect the public and race participants during the regatta, and therefore, must be effective by the start of the event on March 22, 2013.

**B. Basis and Purpose**

The legal basis for the rule is the Coast Guard's authority to establish special local regulations under 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the 2013 International Rolex Regatta.

**C. Discussion of Comments, Changes and the Final Rule**

The Coast Guard received no comments in the docket for this rulemaking. We made no changes to the regulation as originally proposed.

On March 22, 2013, through March 24, 2013, the St. Thomas Yacht Club is sponsoring the 2013 Rolex Regatta, a series of sail boat races. The races will be held on the waters of St. Thomas Harbor, St. Thomas, U. S. Virgin Islands. Approximately 65 sail boats will be participating in the races. It is anticipated that approximately 20 spectator vessels will be present during the races.

These special local regulations encompass certain waters surrounding on St. Thomas Harbor, St. Thomas, U. S. Virgin Islands. The special local regulations will be enforced from 11 a.m. until 2 p.m. every day from March 22, 2013 through March 24, 2013. The special local regulations consist of a race area. Within this area, all persons and vessels, except those persons and vessels participating in the sail boat races, are prohibited from entering, transiting through, anchoring in, or remaining within unless authorized by the Captain of the Port San Juan or a designated representative.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area by contacting the Captain of the Port San Juan by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the race area is granted by the Captain of the Port San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the

instructions of the Captain of the Port San Juan or a designated representative.

The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

**D. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

*1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) The special local regulation will be enforced for only three hours a day for three days, for a total of nine hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the race area without authorization from the Captain of the Port San Juan or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the race area during the enforcement period if authorized by the Captain of the Port San Juan or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

*2. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 received zero comments from the Small Business Administration on this rule. 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 enter, transit through, anchor in, or remain within that portion of St. Thomas Harbor encompassed within the special local regulations from 11:00 a.m. until 2:00 p.m. on March 22, 2013, through March 24, 2013. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule. 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**, above.

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). 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.

### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect 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. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### 7. 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 (adjusted for inflation) 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.

### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### 9. 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.

### 10. 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.

### 11. 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.

### 12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations

That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves special local regulations issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from 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.

■ 2. Add a temporary § 100.35T07–1079 to read as follows:

**§ 100.35T07–1079 Special Local Regulations; 2013 International Rolex Regatta, St. Thomas Harbor; St. Thomas, U.S. Virgin Islands.**

(a) *Race area.* All waters of Rada Fajardo encompassed within the following points: starting at Point 1 in position 18°19.927 N, 64°55.973 W; thence east to Point 2 in position 18°19.970 N, 64°55.769 W; thence southeast to Point 3 in position 18°19.567 N, 64°55.594 W; thence south to point 4 in position 18°19.133 N, 64°55.474 W; thence west to point 5 in

position 18°19.133 N, 64°55.628 W; thence north to point 6 in position 18°19.568 N, 64°55.752 W; thence northwest back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port San Juan in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the race area, unless participating in the race.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area by contacting the Captain of the Port San Juan by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port San Juan or a designated representative.

(3) The Coast Guard will provide notice of the race area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement Dates.* This rule will be enforced daily from 11 a.m. until 2 p.m. on Friday, March 22, 2013 through Sunday, March 24, 2013.

Dated: March 4, 2013.

**D.W. Pearson,**

*Captain, U.S. Coast Guard, Captain of the Port San Juan.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2012-0448; FRL-9791-1]

#### Approval and Promulgation of Implementation Plans; Georgia; Control Techniques Guidelines and Reasonably Available Control Technology

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

**ACTION:** Correcting amendments.

**SUMMARY:** On September 28, 2012, EPA published a final rule in the **Federal**

**Register** approving Georgia State Implementation Plan (SIP) revisions, submitted through the Georgia Environmental Protection Division (GA EPD), related to reasonably available control technology (RACT) requirements. This correcting amendment corrects errors in the non-regulatory Code of Federal Regulations (CFR) language portion of the September 28, 2012, final approval. Specifically, this correction pertains to negative declarations made by GA EPD in its October 21, 2009, SIP submittal for certain source categories for which EPA has issued control technique guidelines (CTG). EPA’s September 28, 2012, final rulemaking addressing Georgia’s RACT revisions, approved the negative declarations; however, they were inadvertently omitted from the actual CFR non-regulatory language at the end of the final action.

**DATES:** Effective on March 19, 2013.

**FOR FURTHER INFORMATION CONTACT:** Jane Spann, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Jane Spann may be reached by phone at (404) 562-9029 or by electronic mail address [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

**SUPPLEMENTARY INFORMATION:** This action corrects an inadvertent omission in EPA’s September 28, 2012, final action approving Georgia’s RACT submittals. On October 21, 2009, Georgia submitted a SIP revision containing, among other things, the Atlanta Area RACT SIP. In this RACT submittal Georgia lists CTG source categories for which Georgia has rules or has made negative declarations.<sup>1</sup> On July 31, 2012 (77 FR 45307), EPA proposed approval of Georgia’s October 21, 2009, SIP revision, including the negative declarations included therein. In EPA’s September 28, 2012, final action (77 FR 59554), EPA approved Georgia’s October 21, 2009, submission, including the list of Georgia rules and negative declarations. Towards the end of the September 28, 2012, final action, EPA inadvertently omitted the list of negative declarations in the CFR non-regulatory language. Today’s correcting amendment will correct the CFR non-regulatory language to include the following information. Georgia made negative declarations in its October 21,

2009, SIP submittal related to the following CTG source categories:

1. Control of Volatile Organic Compound (VOC) Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry (SOCMI) EPA-450/4-91-031, August 1993.
2. Control of VOC Emissions from Equipment Leaks from Natural Gas/Gasoline Processing Plants EPA-450/3-83-007, December 1983.
3. Control of VOC Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment EPA-450/3-83-006, March 1984.
4. Control of VOC Emissions from Air Oxidation Processes in SOCMI, EPA-450/3-84-015, December 1984.

EPA has determined that today’s correcting action falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this action is unnecessary because today’s action simply makes a correction to a previous inadvertent omission in the non-regulatory text of the CFR. EPA previously provided for public notice and comment on the substantive SIP revision approval. In addition, EPA does not believe the public would be interested in commenting on the correction prior to this action being finalized, since this correction action does not change the conclusion of EPA’s analysis or action addressing approval of the Georgia RACT rules.

EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication “as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today’s rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today’s action simply corrects an inadvertent omission in the CFR of a small portion of a SIP revision that EPA previously substantively approved. For these

<sup>1</sup> If no major sources of volatile organic compounds (VOC) or nitrous oxides emissions (each pollutant should be considered separately) in a particular source category exist in an applicable nonattainment area, a state may submit a negative declaration for that category.