

does not involve implementation of a policy with takings implications.

*J. Executive Order 12988—Civil Justice*

This interim final rule has been drafted and reviewed in accordance with E.O. 12988, Civil Justice Reform, and will not unduly burden the Federal court system. The Departments have developed the interim final rule to minimize litigation and provide a clear legal standard for affected conduct, and has reviewed the rule carefully to eliminate drafting errors and ambiguities.

*K. Plain Language*

DOL and DHS have drafted this interim rule in plain language.

**List of Subjects**

*8 CFR Part 214*

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

*20 CFR Part 655*

Administrative practice and procedure, Employment, Employment and training, Enforcement, Foreign workers, Forest and forest products, Fraud, Health professions, Immigration, Labor, Longshore and harbor work, Migrant workers, Nonimmigrant workers, Passports and visas, Penalties, Reporting and recordkeeping requirements, Unemployment, Wages, Working conditions.

**Department of Homeland Security**

**8 CFR Chapter I**

**Authority and Issuance**

Accordingly, for the reasons stated in the joint preamble and pursuant to the authority vested in me as the Secretary of Homeland Security, part 214 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

**PART 214—NONIMMIGRANT CLASSES**

- 1. The authority citation for part 214 continues to read as follows:

**Authority:** 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Public Law 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2.

- 2. Section 214.2 is amended by revising paragraph (h)(6)(iii)(D) to read as follows:

**§214.2 Special requirements for admission, extension, and maintenance of status.**

- (h) \* \* \*  
(6) \* \* \*  
(iii) \* \* \*

(D) The Governor of Guam shall separately establish procedures for administering the temporary labor program under his or her jurisdiction. The Secretary of Labor shall separately establish for the temporary labor program under his or her jurisdiction, by regulation at 20 CFR 655, procedures for administering that temporary labor program under his or her jurisdiction, and shall determine the prevailing wage applicable to an application for temporary labor certification for that temporary labor program in accordance with the Secretary of Labor's regulation at 20 CFR 655.10.

**Department of Labor**

**20 CFR Part 655**

**Authority and Issuance**

Accordingly, for the reasons stated in the joint preamble and pursuant to the authority vested in me as the Acting Secretary of Labor of the United States, part 655 of title 20 of the Code of Federal Regulations is amended as follows:

**PART 655—TEMPORARY EMPLOYMENT OF FOREIGN WORKERS IN THE UNITED STATES**

- 3. The authority citation for part 655 is revised to read as follows:

**Authority:** Section 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii), 8 U.S.C. 1103(a)(6), 1182(m), (n) and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; sec. 412(e), Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 109–423, 120 Stat. 2900; 8 CFR 214.2(h)(4)(i); and 8 CFR 214.2(h)(6)(iii).

- 4. Amend § 655.10 by revising paragraph (b)(2) to read as follows:

**§ 655.10 Determination of prevailing wage for temporary labor certification purposes.**

- \* \* \* \* \*  
(b) \* \* \*

(2) If the job opportunity is not covered by a CBA, the prevailing wage for labor certification purposes shall be the arithmetic mean, except as provided in paragraph (b)(4) of this section, of the wages of workers similarly employed in

the area of intended employment. The wage component of the BLS Occupational Employment Statistics Survey (OES) shall be used to determine the arithmetic mean, unless the employer provides a survey acceptable to OFLC under paragraph (f) of this section.

\* \* \* \* \*

Signed at Washington, DC, this 19th of April 2013.

**Janet Napolitano,**

*Secretary of Homeland Security.*

**Seth D. Harris,**

*Acting Secretary of Labor.*

[FR Doc. 2013–09723 Filed 4–22–13; 4:15 pm]

**BILLING CODE 9111–97–P; 4510–FP–P**

**DEPARTMENT OF THE INTERIOR**

**National Indian Gaming Commission**

**25 CFR Part 547**

**RIN 3141–AA27**

**Minimum Technical Standards for Class II Gaming Systems and Equipment**

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Final rule.

**SUMMARY:** The National Indian Gaming Commission (NIGC or Commission) is amending its rules regarding technical standards for Class II gaming systems and equipment to harmonize the charitable gaming exemption amount in the technical standards with the charitable gaming exemption amount in its Class II minimum internal control standards.

**DATES:** The effective date of these regulations is May 24, 2013.

**FOR FURTHER INFORMATION CONTACT:** Michael Hoenig, Senior Attorney, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005. Email: [michael\\_hoenig@nigc.gov](mailto:michael_hoenig@nigc.gov); telephone: 202–632–7003.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Indian Gaming Regulatory Act (IGRA or the Act), Public Law 100–497, 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The Act established the Commission and set out a comprehensive framework for the regulation of gaming on Indian lands. The Act requires the Commission to “monitor class II gaming conducted on Indian lands on a continuing basis” and to “promulgate such regulations and

guidelines as it deems appropriate to implement” IGRA. 25 U.S.C. 2706(b)(1), (b)(10).

In 2008, the NIGC published a final rule in the **Federal Register** that established technical standards for ensuring the integrity of electronic Class II games and aids. 73 FR 60508, Oct. 10, 2008. The technical standards were designed to assist tribal gaming regulatory authorities and operators with ensuring the integrity and security of Class II gaming, the accountability of Class II gaming revenue, and provided guidance to equipment manufacturers and distributors of Class II gaming systems. The standards did not classify which games were Class II games and which games were Class III games.

## II. Previous Rulemaking Activity

In 2012, the NIGC published a final rule in the **Federal Register** amending its part 547 technical standards to: Change the order of the first five sections; add definitions and amend existing definitions; amend requirements and time restrictions for grandfathered Class II gaming systems; amend the requirements concerning minimum odds for Class II games; amend standards for test labs; remove references to the Federal Communications Commission and Underwriters Laboratory; require a player interface to display a serial number and date of manufacture; amend requirements concerning approval of downloads to a Class II gaming system; and to clarify the term “alternate standard.” 77 FR 58473, Sept. 21, 2012. In addition, § 547.5(e)(5) of the rule states that the part does not apply to a charitable gaming operation provided that, among other requirements, the amount of gross gaming revenue of the charitable gaming operation does not exceed \$1 million. The rule became effective on October 22, 2012.

At the same time that the NIGC amended and published part 547, it amended and published rules containing minimum internal control standards (MICS) for Class II gaming. 77 FR 58708, Sept. 21, 2012. Similar to the part 547 technical standards, the part 543 MICS exempt charitable gaming operations that earn less than a set threshold amount. However, the Commission increased the threshold amount in the MICS from \$1 million to \$3 million.

In February 2013, the Commission published a Notice of Proposed Rulemaking proposing to revise the threshold amount in § 547.5(e)(5) from \$1 million to \$3 million in order to harmonize the charitable gaming exemption amounts in the technical

standards and the MICS to ensure that the exemption for a “charitable gaming operation” is consistent throughout the Commission’s rules (78 FR 11795, Feb. 20, 2013).

## III. Review of Public Comments

In response to its Notice of Proposed Rulemaking published on February 20, 2013, the Commission received the following comments:

*547.5 How does a tribal government, TGRA, or tribal gaming operation comply with this part?*

*Comment:* One commenter commended the current Commission for its efforts to improve existing regulations and for the diligence with which it has undertaken its efforts to consult with tribes. The commenter agrees that the proposed revision is needed in order to match the charitable gaming exemption thresholds of both the technical standards and the MICS.

*Response:* No response is necessary.

*Comment:* One commenter stated that he was puzzled by the \$3 million charitable gaming exemption amount, and requested clarification on whether this threshold amount will have an impact on the amount of Class II gaming revenue fees that are required to be paid to the NIGC.

*Response:* The Commission states that the \$3 million threshold amount does not impact the amount of Class II gaming revenue fees that are required to be paid to the NIGC; but instead, merely exempts charitable gaming operations whose annual gross gaming revenue does not exceed \$3 million from having to abide by the technical standards contained in part 547. The Commission believes that no further revisions to these rules are necessary.

## Regulatory Matters

### Regulatory Flexibility Act

The rule will not have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Moreover, Indian tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

### Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The rule does not have an effect on the economy of \$100 million or more. The rule will not cause a major increase in costs or prices for consumers, individual industries, federal, state, local government agencies or geographic

regions. Nor will the rule have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the enterprises to compete with foreign based enterprises.

### Unfunded Mandate Reform Act

The Commission, as an independent regulatory agency, is exempt from compliance with the Unfunded Mandates Reform Act, 2 U.S.C. 1502(1); 2 U.S.C. 658(1).

### Takings

In accordance with Executive Order 12630, the Commission has determined that the rule does not have significant takings implications. A takings implication assessment is not required.

### Civil Justice Reform

In accordance with Executive Order 12988, the Commission has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

### National Environmental Policy Act

The Commission has determined that the rule does not constitute a major federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*

### Paperwork Reduction Act

The information collection requirements contained in this rule were previously approved by the Office of Management and Budget as required by the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and assigned OMB Control Number 3141-0014. The OMB control number expires on November 30, 2015.

## List of Subjects in 25 CFR Part 547

Gambling; Indian—Indian lands; Indian—tribal government.

For the reasons set forth in the preamble, the Commission amends 25 CFR part 547 as follows:

## PART 547—MINIMUM TECHNICAL STANDARDS FOR CLASS II GAMING SYSTEMS AND EQUIPMENT

■ 1. The authority citation for part 547 continues to read as follows:

**Authority:** 25 U.S.C. 2706(b).

■ 2. In § 547.5, revise paragraph (e)(5) to read as follows:

**§ 547.5 How does a tribal government, TGRA, or tribal gaming operation comply with this part?**

\* \* \* \* \*

(e) \* \* \*

(5) The annual gross gaming revenue of the charitable gaming operation does not exceed \$3,000,000.

\* \* \* \* \*

Dated: April 18, 2013.

**Tracie L. Stevens,**  
Chairwoman.

**Daniel J. Little,**

Associate Commissioner.

[FR Doc. 2013-09604 Filed 4-23-13; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100**

[Docket No. USCG-2013-0211]

RIN 1625-AA08

**Special Local Regulation; Hebda Cup Rowing Regatta, Trenton Channel; Detroit River, Wyandotte, MI**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation on the Trenton Channel of the Detroit River, Wyandotte, Michigan. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after the Hebda Cup Rowing Regatta. This special local regulation will establish restrictions upon, and control movement of, vessels in a portion of the Trenton Channel. During the enforcement period, no person or vessel may enter the regulated area without permission of the Captain of the Port.

**DATES:** This temporary final rule is effective from 7:30 a.m. until 4:30 p.m. on April 27, 2013.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG-2013-0211. To view documents mentioned in this preamble as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov), type the docket number in the "SEARCH" box, and click "Search." You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12-140, 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 temporary rule, call or email LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568-9508, email [Adrian.F.Palomeque@uscg.mil](mailto:Adrian.F.Palomeque@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, 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 is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because waiting for a notice and comment period to run is impracticable, unnecessary, and contrary to the public interest. The final details for this year's boat race were not known to the Coast Guard with sufficient time for the Coast Guard to solicit public comments before the start of the event. Thus, delaying this temporary rule to wait for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public from the hazards associated with this boat race.

It is also unnecessary to solicit public comments because the Hebda Cup Rowing Regatta has taken place annually under the same name for more than eight years. In light of the long history of this event and the prior years that it has been regulated by the Coast Guard, public awareness in the affected area is high, making it unnecessary to wait for a comment period to run before enforcing this special local regulation for the April 27, 2013 Hebda Cup Rowing Regatta event.

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**.

For the same reasons discussed in the preceding two paragraphs, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

**B. Basis and Purpose**

On April 27, 2013, the Wyandotte Boat Club is holding a rowing race that will require the immediate area to be clear of all vessel traffic. The rowing race will occur between 7:30 a.m. and 4:30 p.m. on April 27, 2013. The Captain of the Port Detroit has determined that the likely combination of recreation vessels, commercial vessels, and large numbers of spectators in close proximity to the boat race pose extra and unusual hazards to public safety and property. Thus, the Captain of the Port Detroit has determined that establishing a Special Local Regulation, pursuant to the authority in 33 U.S.C. § 1233, around the race's course will help ensure the safety of life during this event.

**C. Discussion of Rule**

In light of the aforesaid hazards, the Captain of the Port Detroit has determined that a special local regulation is necessary to protect spectators, vessels, and participants. The special local regulation will encompass all waters of the Detroit River, Trenton Channel starting at a point on land at position  $42^{\circ}10'58'' N$ ,  $083^{\circ}9'23'' W$ ; following the Trenton Channel north to position  $42^{\circ}11'44'' N$ ,  $083^{\circ}8'56'' W$ ; and will be enforced on April 27, 2013, from 7:30 a.m. until 4:30 p.m. All geographic coordinates are North American Datum of 1983 (NAD 83).

Two thirds of the Trenton Channel on the western portion of the regulated area, from the Wyandotte shoreline to a point approximately 670 feet east into the channel, will be designated as the race zone, while the remaining third portion on the eastern side of the of the regulated area, approximately 330 feet in width, will be designated as a buffer zone.

Entry into, transiting, or anchoring within the race zone the regulated area is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. Entry into and transiting within buffer zone of the regulated area is only authorized at no-wake speed and requires the authorization of the Captain of the Port or his designated on scene representative. The Captain of the Port or his designated on scene