

prevailing wage determinations issued using the OES survey to be based on the mean wage for the occupation in the area of intended employment without tiers or skill levels. 78 FR at 24053. That revision became effective on April 24, 2013, the date of publication, because of the need to comply within the 30-day period ordered by the *CATA II* Court. The rule was published pursuant to 5 U.S.C. 553(b)(B), which authorizes agencies to make a rule effective immediately upon a showing of “good cause.” Significantly, however, the 2013 IFR only implemented the court-ordered change to the wage methodology but left intact all other provisions of the wage methodology contained in the 2008 rule, including allowing the use of employer-submitted surveys, and permitting voluntary use of the SCA or DBA wage if one was available for the occupation in the area of intended employment. Despite immediate implementation of the provisions of the 2013 IFR, the Departments requested comments on all aspects of the prevailing wage provisions of 20 CFR 655.10(b), including, among other things, whether the OES mean is the appropriate basis for determining the prevailing wage; whether wages based on the DBA or SCA should be used to determine the prevailing wage, and if so, to what extent; and whether the continued use of employer-submitted surveys should be permitted and if so, how to strengthen their methodology. The comment period closed on June 10, 2013, and the Departments received over 300 comments on all aspects of the H–2B wage methodology from interested parties.

On July 23, 2013, DOL proposed the indefinite delay of the effective date of the 2011 Wage Rule, and accepted comments from the public on the proposed indefinite delay through August 9, 2013. 78 FR 44054. The reasons for this delay were two-fold: First, at that time, implementation of the 2011 Wage Rule was still effectively made impossible by Congress’s continued refusal to appropriate funding for this purpose, with no indication that the prohibition on the use of appropriated funds would be lifted in the future. Second, at that time, the Departments were reviewing and analyzing the comments received on the 2013 IFR to determine whether changes to 20 CFR 655.10(b) were warranted in light of the public comments. For these two reasons, on August 30, 2013 DOL published a final rule indefinitely delaying the effective date of the 2011 Wage Rule. 78 FR 53643, 53645 (indefinite delay rule). In the final

indefinite delay rule, DOL stated that when “Congress no longer prohibits implementation of the 2011 Wage Rule, the Department [of Labor] will publish a document in the **Federal Register** within 45 days of that event apprising the public of the status of 20 CFR 655.10 and the effective date of the 2011 Wage Rule.” *Id.* DOL also stated that, “if Congress lifts the prohibition against implementation of the 2011 Wage Rule, the Department [of Labor] would need time to assess the current regulatory framework, to consider any changed circumstances, novel concerns or new information received, and to minimize disruptions.” 78 FR at 53645.

On January 17, 2014, the Consolidated Appropriations Act, 2014, Public Law 113–76, 128 Stat. 5, was enacted. For the first time in over two years, DOL’s appropriations did not prohibit the implementation or enforcement of the 2011 Wage Rule. Moreover, on February 5, 2014, the Third Circuit Court of Appeals held that “DOL has authority to promulgate rules concerning the temporary labor certification process in the context of the H–2B program, and that the 2011 Wage Rule was validly promulgated pursuant to that authority.” *La. Forestry Ass’n v. Perez*, — F.3d —, 2014 WL 444157, at *11 (3d Cir. 2014). The Third Circuit further found that DOL did not act in contravention of the procedural requirements of the APA in issuing the 2011 Wage Rule, and that the INA’s requirement of the four wage tiers in the H–1B program, 8 U.S.C. 1182(p)(4), applies only to that program and is not mandated in the H–2B program. *Id.* at *17–20.

DOL is now “free to take any steps deemed necessary to implement, administer and enforce the regulations.” *See Am. Fed’n of Gov. Employees v. OPM*, 821 F.2d 761, 764 (D.C. Cir. 1987). Accordingly, as described below, DOL intends to engage in further notice and comment rulemaking in order to move toward implementing, subject to modifications based on the notice and comment, the 2011 Wage Rule.

With the appropriations rider pertaining to the 2011 Wage Rule having been lifted, the Department has begun the process of determining how to implement that rule, keeping in mind the overlap between that rule and the comments submitted in connection with the 2013 IFR. DOL has determined that recent developments in the H–2B program require consideration of the comments submitted in connection with the 2013 IFR, and that further notice and comment is appropriate. As stated in the preamble to the 2011 Wage Rule (76 FR 3458–61), and the preamble to

the 2013 IFR (79 FR 24053–54), DOL will continue to implement the H–2B wage methodology using the OES mean wage rate as the proper baseline for setting prevailing wage rates. DOL continues to evaluate other policy choices, including the possible use of SCA and DBA wage rates and private surveys, in light of additional public input and program experience. After receiving and reviewing this information, DOL intends to exercise its rulemaking authority to implement a regulation governing the wage methodology in the H–2B program, modified as necessary to accommodate these developments and considerations.

Therefore in light of the current regulatory landscape and in response to Congress’s recent actions, as well as judicial decisions, DOL intends to publish a notice of proposed rulemaking on the proper wage methodology for the H–2B program, working off of the 2011 Wage Rule as a starting point. Until such time as DOL finalizes a new wage methodology, the current wage methodology contained in 20 CFR 655.10(b), as set by the 2013 IFR, will remain unchanged and continue in effect. We will consolidate our current review of comments on the 2013 IFR with review of comments received on the new notice of proposed rulemaking, and will issue a final rule accordingly.

Signed: at Washington, DC, this 10th of March, 2014.

Eric M. Seleznow,
Acting Assistant Secretary for Employment and Training.

[FR Doc. 2014–05589 Filed 3–12–14; 11:15 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2014–0056]

RIN 1625–AA08

Special Local Regulations for Marine Events, Atlantic Ocean; Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish special local regulations during the “2014 Ocean City Air Show,” a marine event to be held above the waters of the Atlantic Ocean during June 12–15, 2014. These special local regulations are necessary to provide for the safety of life on navigable waters

during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Atlantic Ocean in the vicinity of Ocean City, MD during the event.

DATES: Comments and related material must be received by the Coast Guard on or before April 14, 2014.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal:*
<http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail or Delivery:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410-576-2674, email Ronald.L.Houck@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, 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. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and

material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2014-0056] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2014-0056) 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.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

The current regulations under 33 CFR 100 address safety for reoccurring marine events. This marine event does not appear in the current regulations; however, as it is a regulation to provide effective control over regattas and marine parades on the navigable waters of the United States so as to insure safety of life in the regatta or marine parade area, this marine event therefore needs to be temporarily added.

Air shows are frequently held from locations above or near the navigable waters of the United States. The potential hazards associated with air shows are a safety concern during such events. The purpose of this rule is to promote public and maritime safety during activities associated with an air show, and to protect mariners transiting the area from the potential hazards associated with an air show, such as the aircraft accidents, dangerous projectiles, and falling debris. This rule is needed to ensure safety on the waterway before, during and after the scheduled event.

C. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 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 2014 Ocean City Air Show event.

D. Discussion of Proposed Rule

The Town of Ocean City, MD will sponsor an annual air show demonstration over the Atlantic Ocean, east of the beach, between Talbot Street and 23rd Street at Ocean City, Maryland, scheduled on June 14, 2014 and June 15, 2014. In addition, air show practices and rehearsals are scheduled on June 12, 2014 and June 13, 2014.

Through this regulation, the Coast Guard proposes to establish special local regulations on specified waters of the Atlantic Ocean. The proposed regulated area will encompass all waters of the Atlantic Ocean, in the vicinity of Ocean City, MD, bounded by the following coordinates: Point of origin at 38°21'38" N, 075°04'04" W; thence easterly to 38°21'27" N, 075°03'29" W;

thence southerly to 38°19'35" N, 075°04'19" W; thence westerly to 38°19'45" N, 075°04'54" W; thence northerly to the point of origin. The temporary regulated area will be enforced daily, from 10 a.m. through 4 p.m., from June 12, 2014 through June 15, 2014.

The effect of this proposed rule will be to restrict general navigation in the regulated area during the event. Vessels intending to transit the Atlantic Ocean through the regulated area will be allowed to safely transit the regulated area only when the Coast Guard Patrol Commander has deemed it safe to do so. The Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners, Broadcast Notice to Mariners, and the official patrol on scene. Such notices will continue until the event is complete.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed 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.

Although this proposed rule would restrict access to this regulated area, the effect of this rule will not be significant because: (i) The special local regulations will only be in effect daily, from 10 a.m. through 4 p.m., from June 12, 2014 through June 15, 2014, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) although the regulated area applies to a certain portion of the Atlantic Ocean, vessel traffic will be able to transit safely around the regulated area.

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 certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to operate or transit through or within, or anchor in, the regulated area during the enforcement period. This proposed rule will not have a significant economic impact on a substantial number of small entities for the reasons provided under Regulatory Planning and Review.

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.

3. 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 proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would 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 proposed 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 From Environmental Health Risks

We have analyzed this proposed 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.

11. Indian Tribal Governments

This proposed 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.

12. Energy Effects

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

14. Environment

We have analyzed this proposed 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 made a preliminary determination 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 proposed rule involves special local regulations issued in conjunction with a regatta or marine parade. The activities associated with an air show, such as air show performances and rehearsals, will occur over navigable waters of the United States and may have potential for negative impact on the safety or other interest of waterway users and near shore activities in the event area. The activity includes high speed and low altitude aerobatic maneuvers near the shoreline that generally rely on the use of navigable waters as a safety buffer to protect the public from hazards associated with an air show. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. A preliminary 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 proposed 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 proposes to amend 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 section, § 100.35–T05–0056 to read as follows:

§ 100.35–T05–0056 Special Local Regulations for Marine Events, Atlantic Ocean; Ocean City, MD.

(a) *Regulated area.* The following area is a regulated area: All waters of the Atlantic Ocean in the vicinity of Ocean City, MD, bounded by the following coordinates: Point of origin at 38°21'38" N, 075°04'04" W; thence easterly to 38°21'27" N, 075°03'29" W; thence southerly to 38°19'35" N, 075°04'19" W; thence westerly to 38°19'45" N, 075°04'54" W; thence northerly to the point of origin. All coordinates refer to datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all persons and vessels participating in the 2014 Ocean City Air Show event under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(c) *Special local regulations:* (1) The Coast Guard Patrol Commander may forbid and control the movement of all vessels and persons in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) With the exception of participants, all persons desiring to transit the regulated area must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). All Coast Guard vessels enforcing this regulated area can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz).

(3) The Coast Guard Patrol Commander may terminate the event, or the operation of any participant in the event, at any time it is deemed necessary for the protection of life or property.

(4) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) *Enforcement period.* This section will be enforced daily, from 10 a.m. through 4 p.m., from June 12, 2014 through June 15, 2014.

Dated: February 24, 2014.

Kevin C. Kiefer,

Captain, U.S. Coast Guard, Captain of the Port Baltimore.

[FR Doc. 2014-05578 Filed 3-13-14; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2013-1058]

RIN 1625-AA00

Safety Zone; Webb Institute Fireworks, Long Island Sound, Glen Cove, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the navigable waters of Long Island Sound in the vicinity of Glen Cove, New York for a fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays. This rule is intended to restrict all vessels from a portion of Long Island Sound before, during, and immediately after the fireworks event.

DATES: Comments and related material must be received by the Coast Guard on or before April 14, 2014.

Requests for public meetings must be received by the Coast Guard on or before March 21, 2014.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) Federal eRulemaking Portal: <http://www.regulations.gov>.

(2) Fax: 202-493-2251.

(3) Mail or Delivery: Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE.,