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DEPARTMENT OF HOMELAND SECURITY

JUL 19 2004

Coast Guard

33 CFR Part 100

USCG-2004-19416-34

[CGD07-04-043]

RIN 1625-AA08

Special Local Regulations; Dania Beach/Hollywood Super Boat Race, Dania

Beach/Hollywood, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the Dania Beach/Hollywood Super Boat Race to be held offshore in Dania Beach/Hollywood, Florida. These special local regulations restrict the movement of non-participating vessels in the regulated race area and provide a viewing area for spectator craft. This rule is needed to provide for the safety of life on navigable waters during the event.

DATES: This rule is effective from 10 a.m. until 5 p.m. on July 18, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are parts of docket CGD07-04-043 and are available for inspection or copying at Coast Guard Group Miami, 100 MacArthur Causeway, Miami Beach, FL 33139 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

JUL 20 2004 # 3033 K.K.

FOR FURTHER INFORMATION CONTACT: Boatswain's Mate Chief D. Vaughn,
Coast Guard Group Miami, FL at (305) 535-4317.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM would be unnecessary and contrary to public safety interests. This rule is needed to minimize danger to the public resulting from numerous spectator craft and participant craft in close proximity to each other. The event will be held on July 18, 2004 and there is not sufficient time to allow for a notice and comment period, prior to the event. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. In addition, advance notifications will be made via marine information broadcasts.

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

Background and Purpose

Super Boat International Productions Inc. is sponsoring a high-speed power boat race proposed to take place on July 18, 2004 from 10 a.m. until 5 p.m., in the Atlantic Ocean off Dania Beach/Hollywood, Florida. The race organizers anticipate 35 participants and 100 spectator craft. The event will take place outside of the marked channel and will not interfere with commercial shipping. Recreational vessels and fishing vessels normally operate in these waters. This rule is required to provide for the

safety of life on navigable waters, because of the inherent dangers associated with power boat races. The rule prohibits non-participating vessels from entering the regulated race area offshore of Dania Beach/Hollywood, Florida during the event. A Coast Guard Patrol Commander will be present during the event to monitor compliance with this regulation.

Discussion of Rule

This rule creates two regulated areas, a race area and a viewing area. These regulated areas provide for the safety of life on navigable waters and minimize the inherent dangers associated with powerboat races. These dangers include race craft traveling at high speeds in close proximity to one other and in relatively close proximity to spectator craft. Public safety concerns require the rule to keep event participants, spectator craft and normal vessel traffic from colliding during the races.

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.

The rule affects a limited area offshore of Dania Beach/Hollywood, Florida, and will be effective for only 7 hours on July 18, 2004, specifically from 10 a.m. until 5 p.m.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Atlantic Ocean near Dania Beach/Hollywood, Florida, from 10 a.m. until 5 p.m., on July 18, 2004. The Coast Guard certifies under U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities, because this rule would be in effect for only 7 hours. The rule also regulates a small area, and commercial and recreational vessels may be allowed to transit through the zone between races with permission of the Coast Guard Patrol Commander. Moreover, all vessel traffic can pass safely around the zone. Before the effective period, we will issue maritime advisories over VHF-FM radio to allow the maritime community to plan accordingly.

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.

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 so that they can better evaluate its effects on them and participate in the rulemaking process. 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 under FOR FURTHER INFORMATION CONTACT for assistance in understanding and participating in this rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule 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 does not affect 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 will 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 does not have

a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order, because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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), an “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are not required for this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and record keeping requirements,

Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100, as follows:

PART 100—[MARINE EVENTS]

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. Add temporary § 100.35T-07-043 to read as follows:

§ 100.35T-07-043 Dania Beach/Hollywood Super Boat Race; Dania Beach/Hollywood, Florida.

- (a) Regulated areas. (1) The regulated race area (race area) encompasses all waters located inside of an imaginary line connecting the following positions located offshore of Dania Beach/Hollywood, Florida:

Point 1: 26° 03' 41"N, 080° 05' 01"W,

Point 2: 26° 03' 41"N, 080° 06' 23"W,

Point 3: 26° 00' 07"N, 080° 05' 36"W,

Point 4: 26° 00' 10"N, 080° 06' 50"W.

All coordinates referenced use Datum: NAD 1983.

- (2) The spectator craft viewing area (viewing area) encompasses all waters located inside of an imaginary line connecting the following positions located offshore of Dania Beach/Hollywood, Florida:

Point 1: 26° 03' 41"N, 080° 05' 30"W,

Point 2: 26° 03' 41"N, 080° 05' 01"W,

Point 3: 26° 00' 07"N, 080° 05' 56"W,

Point 4: 26° 00' 07"N, 080° 05' 36"W.

All coordinates referenced use Datum NAD: 1983.

(b) Coast Guard Patrol Commander. The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commanding Officer, Coast Guard Group Miami, Florida.

(c) Special Local Regulations. From 10 a.m. until 5 p.m. on July 18, 2004, non-participant vessels are prohibited from entering the race area, unless authorized by the Coast Guard Patrol Commander. Spectator craft may remain in the designated

viewing area so long as they follow the directions of the Coast Guard Patrol
Commander.

(d) Dates: This rule is effective from 10 a.m. until 5 p.m. on July 18, 2004.

DATED:

July 10, 2004

A handwritten signature in black ink, appearing to read "D. B. Peterman", with a horizontal line drawn through the middle of the signature.

D. B. Peterman
Rear Admiral, U.S. Coast Guard
Commander, Seventh Coast Guard District