

provided in section 6334(e), the principal residence (within the meaning of section 121) of the taxpayer and tangible personal property or real property (other than real property which is rented) used in the trade or business of an individual taxpayer.

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(d) *Levy allowed on principal residence.* The Service will seek approval, in writing, by a judge or magistrate of a district court of the United States prior to levy of property that is owned by the taxpayer and used as the principal residence of the taxpayer, the taxpayer's spouse, the taxpayer's former spouse, or the taxpayer's minor child.

(1) *Nature of judicial proceeding.* The Government will initiate a proceeding for judicial approval of levy on a principal residence by filing a petition with the appropriate United States District Court demonstrating that the underlying liability has not been satisfied, the requirements of any applicable law or administrative procedure relevant to the levy have been met, and no reasonable alternative for collection of the taxpayer's debt exists. The petition will ask the court to issue to the taxpayer an order to show cause why the principal residence property should not be levied and will also ask the court to issue a notice of hearing.

(2) The taxpayer will be granted a hearing to rebut the Government's prima facie case if the taxpayer files an objection within the time period required by the court raising a genuine issue of material fact demonstrating that the underlying tax liability has been satisfied, that the taxpayer has other assets from which the liability can be satisfied, or that the Service did not follow the applicable laws or procedures pertaining to the levy. The taxpayer is not permitted to challenge the merits underlying the tax liability in the proceeding. Unless the taxpayer files a timely and appropriate objection, the court would be expected to enter an order approving the levy of the principal residence property.

(3) *Notice letter to be issued to certain family members.* If the property to be levied is owned by the taxpayer but is used as the principal residence of the taxpayer's spouse, the taxpayer's former spouse, or the taxpayer's minor child, the Government will send a letter to each such person providing notice of the commencement of the proceeding. The letter will be addressed in the name of the taxpayer's spouse or ex-spouse, individually or on behalf of any minor children. If it is unclear who is living in the principal residence property and/or

what such person's relationship is to the taxpayer, a letter will be addressed to "Occupant". The purpose of the letter is to provide notice to the family members that the property may be levied. The family members may not be joined as parties to the judicial proceeding because the levy attaches only to the taxpayer's legal interest in the subject property and the family members have no legal standing to contest the proposed levy.

(e) *Levy allowed on certain business assets.* The property described in section 6334(a)(13)(B)(ii) shall not be exempt from levy if—

(1) An Area Director of the Service personally approves (in writing) the levy of such property; or

(2) The Secretary finds that the collection of tax is in jeopardy. An Area Director may not approve a levy under paragraph (e)(1) unless the Area Director determines that the taxpayer's other assets subject to collection are insufficient to pay the amount due, together with expenses of the proceeding. When other assets of an individual taxpayer include permits issued by a State and required under State law for the harvest of fish or wildlife in the taxpayer's trade or business, the taxpayer's other assets also include future income that may be derived by such taxpayer from the commercial sale of fish or wildlife under such permit.

(f) *Levy allowed on certain specified payments.* Any payment described in section 6331(h)(2)(B) or (C) shall not be exempt from levy if the Secretary approves the levy thereon under section 6331(h).

(g) *Inflation adjustment.* For any calendar year beginning after 1999, each dollar amount referred to in paragraphs (a)(2) and (3) of this section will be increased by an amount equal to the dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year (using the language "calendar year 1998" instead of "calendar year 1992" in section 1(f)(3)(B)). If any dollar amount as adjusted is not a multiple of \$10, the dollar amount will be rounded to the nearest multiple of \$10 (rounding up if the amount is a multiple of \$5).

(h) *Effective date.* This section is generally effective with respect to levies made on or after July 1, 1989. However, any reasonable attempt by a taxpayer to comply with the statutory amendments addressed by the regulations in this section prior to February 21, 1995, will be considered as meeting the requirements of the regulations in this section. In addition, paragraph (a)(11)(i) of this section is applicable with respect

to levies issued after December 31, 1996. Paragraphs (a)(2), (a)(3), (a)(8), (a)(13), (d), (e), (f), (g) and (h) of this section apply as of March 7, 2005.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: February 15, 2005.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury.

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DEPARTMENT OF JUSTICE

28 CFR Part 28

[Docket No. OAG 108; A.G. Order No. 2753-2005]

RIN 1105-AB09

DNA Sample Collection From Federal Offenders Under the Justice for All Act of 2004

AGENCY: Department of Justice, Office of the Attorney General.

ACTION: Corrections to interim rule.

SUMMARY: This document contains corrections to the interim rule published Monday, January 31, 2005, at 70 FR 4763, relating to DNA sample collection from federal offenders under the Justice for All Act of 2004. These corrections conform the references in the preamble to the actual paragraph designations in § 28.2(b)(3) and also correct a typographical error.

DATES: Effective March 7, 2005.

FOR FURTHER INFORMATION CONTACT: David J. Karp, Senior Counsel, Office of Legal Policy, Room 4509, Main Justice Building, 950 Pennsylvania Avenue, NW., Washington, DC 20530.

SUPPLEMENTARY INFORMATION: The interim rule that is the subject of these corrections implements section 203(b) of Pub. L. 108-405, the Justice for All Act of 2004. The rule amends 28 CFR 28.2 to reflect the expansion of the class of federal offenses, conviction for which results in the collection of DNA samples from the offenders, to include all felonies.

Corrections:

1. On page 4765, in the second column, in the second full paragraph, in the eighteenth line, "28.2(a)(1)'s" is deleted and "28.2(b)(1)'s" is added in lieu thereof.

2. On page 4765, in the third column, in the first paragraph, in the sixteenth line, "(b)(3)(A)" is deleted and "(b)(3)(i)" is added in lieu thereof.

3. On page 4765, in the third column, in the first paragraph, in the thirty-first line, “(b)(3)(A)” is deleted and “(b)(3)(i)” is added in lieu thereof.

4. On page 4765, in the third column, in the second paragraph, in the fifth line, “(b)(3)(A)” is deleted and “(b)(3)(i)” is added in lieu thereof.

5. On page 4766, in the first column, in the first full paragraph, in the first line, “(b)(3)(B)” is deleted and “(b)(3)(ii)” is added in lieu thereof.

6. On page 4766, in the first column, in the first full paragraph, in the fifteenth line, “(b)(3)(B)” is deleted and “(b)(3)(ii)” is added in lieu thereof.

7. On page 4766, in the first column, in the second full paragraph, in the eighteenth line, “(b)(3)(I)” is deleted and “(b)(3)(ix)” is added in lieu thereof.

Rosemary Hart,

Federal Register Liaison Officer.

[FR Doc. 05-4303 Filed 3-4-05; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05-04-196]

RIN 1625-AA08

Special Local Regulations for Marine Events; Severn River, College Creek, Weems Creek and Carr Creek, Annapolis, MD

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the special local regulations at 33 CFR 100.518, established for marine events held annually in the Severn River, Annapolis, Maryland by publishing the name of the events, the dates and modifying the boundaries of the regulated area. The marine events included in this rule include the Safety at Sea Seminar, U.S. Naval Academy crew races and the Blue Angels air show. This rule is intended to restrict vessel traffic in portions of the Severn River during the period of these marine events and is necessary to provide for the safety of life on navigable waters during the event.

DATES: This rule is effective April 6, 2005.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD05-04-196) and are

available for inspection or copying at Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, Room 119, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Dennis M. Sens, Project Manager, Auxiliary and Recreational Boating Safety Branch, at (757) 398-6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On December 7, 2004, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Severn River, College Creek, Weems Creek and Carr Creek, Annapolis, MD in the **Federal Register** (69 FR 234). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The regulations at 33 CFR 100.518 are enforced annually for the duration of each marine event listed in paragraph (c) of § 100.518, U.S. Naval Academy marine events. Paragraph (c) of § 100.518 lists the enforcement dates for the Safety at Sea Seminar on the last Saturday of March, the U.S. Naval Academy crew races on the third and fourth Saturday of April, and the third Friday in May, and the Blue Angels air show on the last Tuesday and Wednesday in May. Notice of exact time, date and location of the event will be published in the **Federal Register** prior to the event. The northwest and southeast boundaries of the regulated area in section 100.518 will be extended approximately 1200 yards to accommodate the aerobatic maneuvering area for the air show and encompass the rowing course for Naval Academy crew races. The U.S. Naval Academy who is the sponsor for all of these events intends to hold them annually.

Discussion of Comments and Changes

No comments were received in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing special local regulations on specified waters of the Severn River, College Creek, Weems Creek and Carr Creek. Since no comments were received, no changes to this regulation were made.

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 effect of this action merely establishes the dates on which the existing regulations would be in effect and modifies the boundaries of the regulated area and does not impose any new restrictions on vessel traffic.

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 does not have a significant economic impact on a substantial number of small entities. This rule may effect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Severn River during the event.

This rule does not have a significant economic impact on a substantial number of small entities for the following reasons. This rule merely establishes the dates on which the existing regulations will be in effect and modify the boundaries of the regulated area and will not impose any new restrictions on vessel traffic.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about