

employer's misrepresentation regarding such offers of employment may be filed with the Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration-Related Unfair Employment Practices, 950 Pennsylvania Avenue, NW., Washington, DC 20530, telephone: 1 (800) 255-8155 (employees), 1 (800) 255-7688 (employees); Web address: <http://www.usdoj.gov/crt/osc>."

10. Section 655.736 is amended in paragraph (g)(1) by removing the phrase "paragraph (2)(g) of this section" where it appears and adding in lieu thereof the phrase "paragraph (g)(2) of this section" and by revising paragraphs (c) introductory text, (g)(2), and (g)(4) to read as follows:

**§ 655.736 What are H-1B-dependent employers and willful violators?**

(c) Which employers are required to make determinations of H-1B-dependency status? Every employer that intends to file an LCA regarding H-1B nonimmigrants or to file H-1B petition(s) or request(s) for extension(s) of H-1B status from January 19, 2001, through September 30, 2003, and after March 7, 2005, is required to determine whether it is an H-1B-dependent employer or a willful violator which, except as provided in § 655.737, will be subject to the additional obligations for H-1B-dependent employers (see paragraph (g) of this section). No H-1B-dependent employer or willful violator may use an LCA filed before January 19, 2001, and during the period of October 1, 2003, through March 7, 2005, to support a new H-1B petition or request for an extension of status. Furthermore, on all H-1B LCAs filed from January 19, 2001, through September 30, 2003, and on or after March 8, 2005, an employer will be required to attest as to whether it is an H-1B-dependent employer or willful violator. An employer that attests that it is non-H-1B-dependent but does not meet the "snap shot" test set forth in paragraph (c)(2) of this section shall make and document a full calculation of its status. However, as explained in paragraphs (c)(1) and (2), which follow, most employers would not be required to make any calculations or to create any documentation as to the determination of H-1B status.

\* \* \* \* \*  
(g) \* \* \*  
\* \* \* \* \*

(2) During the period between January 19, 2001, through September 30, 2003, and on or after March 8, 2005, any employer that is "H-1B-dependent" (under the standards described in paragraphs (a) through (e) of this

section) or is a "willful violator" (under the standards described in paragraph (f) of this section) shall file a new LCA accurately indicating that status in order to be able to file petition(s) for new H-1B nonimmigrant(s) or request(s) for extension(s) of status for existing H-1B nonimmigrant(s). An LCA filed during a period when the special attestation obligations for H-1B dependent employers and willful violators were not in effect (that is before January 19, 2001, and from October 1, 2003, through March 7, 2005) may not be used by an H-1B dependent employer or willful violator to support petition(s) for new H-1B nonimmigrant(s) or request(s) for extension(s) of status for existing H-1B nonimmigrants.

\* \* \* \* \*

(4) The special provisions for H-1B-dependent employers and willful violator employers do not apply to LCAs filed from October 1, 2003, through March 7, 2005, or before January 19, 2001. However, all LCAs filed before October 1, 2003, and containing the additional attestation obligations described in this section and §§ 655.737 through 655.739, will remain in effect with regard to those obligations, for so long as any H-1B nonimmigrant(s) employed pursuant to the LCA(s) remain employed by the employer.

**§ 655.740 [Amended]**

11. Section 655.740 is amended in paragraphs (a) introductory text and (a)(1) by removing the phrase "regional Certifying Officer" where it appears and adding in lieu thereof the phrase "Certifying Officer," and in paragraph (a)(3) by removing the phrase "the regional office" and adding in lieu thereof "ETA."

12. Section 655.750 is amended by revising paragraphs (a) and (b)(2) to read as follows:

**§ 655.750 What is the validity period of the labor condition application?**

(a) *Validity of certified labor condition applications.* A labor condition application certified pursuant to the provisions of § 655.740 is valid for the period of employment indicated on Form ETA 9035E or ETA 9035 by the authorized DOL official. The validity period of a labor condition application will not begin before the application is certified and the period of authorized employment shall not exceed three years. However, in the event employment pursuant to section 214(n) of the INA (formerly section 214(m), addressing increased portability of H-1B status) commences prior to certification of the labor condition application, the attestation requirements

of the subsequently certified application shall apply back to the first date of employment. Where the labor condition application contains multiple periods of intended employment, the validity period shall extend to the latest date indicated or three years, whichever comes first.

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

(2) Requests for withdrawals shall be in writing and shall be sent to ETA. ETA shall publish a Notice in the **Federal Register** identifying the address, and any future address changes, to which requests for withdrawals shall be mailed, and shall also post these addresses on the DOL Internet Web site at <http://www.lca.doleta.gov>.

\* \* \* \* \*

13. Section 655.760 is amended by revising paragraph (a)(1) to read as follows:

**§ 655.760 What records are to be made available to the public, and what records are to be retained?**

(a) \* \* \*

(1) A copy of the certified labor condition application (Form ETA 9035E or Form ETA 9035) and cover pages (Form ETA 9035CP). If the Form ETA 9035E is submitted electronically, a printout of the certified application shall be signed by the employer and maintained in its files and included in the public examination file.

\* \* \* \* \*

Signed in Washington, DC, this 28th day of March, 2005.

**Emily Stover DeRocco,**

*Assistant Secretary, Employment and Training Administration.*

[FR Doc. 05-6454 Filed 3-31-05; 8:45 am]

**BILLING CODE 4510-30-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 100**

[CGD 07-05-012]

RIN 1625-AA08

**Special Local Regulations: Annual Fort Myers Beach Air Show, Fort Myers Beach, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish permanent special local regulations for the Fort Myers Beach Air Show, Fort Myers Beach, Florida. This

event is proposed to be held annually on the second Friday, Saturday, and Sunday of May between 8:30 a.m. and 4:30 p.m. EDT (Eastern Daylight Time). This proposed regulation is needed to restrict persons and vessels from entering the sterile zone (air box) below the aerial demonstration and restrict vessels from mooring/anchoring or transiting within the surrounding regulated area with the exception of the Matanzas Pass Channel. This proposed rule is necessary to ensure the safety of life for the participating aircraft, spectators, and mariners in the area on the navigable waters of the United States.

**DATES:** Comments and related material must reach the Coast Guard on or before May 2, 2005.

**ADDRESSES:** You may mail comments and related material to Coast Guard Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606-3598. The Waterways Management Division maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Coast Guard Marine Safety Office Tampa between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Jennifer Andrew at Coast Guard Marine Safety Office Tampa (813) 228-2191 Ext 8203.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD 07-05-012), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Marine Safety Office Tampa at the

address under **ADDRESSES** explaining why one 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**.

**Background and Purpose**

The South West Florida Aviation Foundation's show involves the performance of aerial demonstrations over the near-shore waters of Fort Myers Beach, Florida. The annual event is proposed for the second Friday, Saturday, and Sunday of May from 8:30 a.m. until 4:30 p.m. The nature of aerial demonstrations requires aircraft to use markers in the water as points of reference for aircraft maneuvers. The Federal Aviation Administration (FAA) has published guidelines that aircraft must comply with based on the speed of the aircraft involved and the location of the audience. This proposed regulation is in accordance with those guidelines for the sterile zone (air box) as well as egress routes and vessel movements outside the air box.

**Discussion of Proposed Rule**

The proposed regulations will include a sterile zone (air box) directly under the aerial demonstration over the near-shore waters of Fort Myers Beach in Lee County, Florida. All vessels and persons would be prohibited from entering, anchoring, mooring or transiting the proposed regulated area. Vessel traffic will be allowed to enter and exit Matanzas Pass Channel using the marked channel at Matanzas Pass Channel daybeacon #3 (26°25'54" N, 82°58'12" W, LLNR 16365) and #4 (26°26'06" N, 82°57'48" W, LLNR 16370) but may not linger within the regulated area. This proposed regulation is intended to provide for the safety of life on the navigable waters of the United States for Air Show participants and for mariners traveling in the vicinity of the Air Show and is based on FAA guidelines in the FAA Code: Order 8700.1, Operations Inspector Handbook, Volume 2, Chapter 49. All coordinates referenced use datum NAD 83.

**Regulatory Evaluation**

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. The proposed regulation would last for only eight hours on each of the three event days. Vessel traffic is low in this area and vessels will still be allowed to enter and exit through the Matanzas Pass Channel.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit near to shore at Fort Myers Beach, FL in the vicinity of Matanzas Pass annually from 8:30 a.m. to 4:30 p.m. on the second Friday, Saturday, and Sunday in May. This proposed rule would not have a significant economic impact on a substantial number of small entities since it would be in effect for only eight hours a day on each of the three event days. Vessel traffic is low in this area and vessels will still be allowed to enter and exit through the Matanzas Pass Channel.

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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 identified in the **FOR FURTHER INFORMATION CONTACT**. 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.

#### Collection of Information

This proposed rule would call 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 proposed 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 proposed 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 proposed rule would not effect 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 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.

#### Protection of Children

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.

#### 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.

#### Energy Effects

We have analyzed this proposed 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.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

#### Environment

We have analyzed this proposed 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. As a special local regulation issued in conjunction with an air show, this proposed rule satisfies the requirements of paragraph (34)(h). Under figure 2–1, paragraph (34)(h), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

#### 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—MARINE EVENTS & REGATTAS

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 § 100.736 to read as follows:

#### § 100.736 Annual Fort Myers Beach Air Show; Fort Myers Beach, FL.

(a)(1) *Regulated Area*. The regulated area is formed by the following coordinates; point 1: 26°28'08" N, 81°59'15" W south to point 2: 26°27'37" N, 81°59'39" W east to point 3: 26°25'45" N, 81°55'34" W north to point 4: 26°26'14" N, 81°55'22" W and west along the contour of the shore to point 5: 26°27'52" N, 81°58'04" W to original point 1: 26°28'08" N, 81°59'15" W. All coordinates referenced use datum: NAD 83.

(2) *Air Box Area*. The air box area is contained within the regulated area and is formed by the following coordinates; point 1: 26°27'34" N, 81°58'22" W south to point 2: 26°27'07" N, 81°58'39" W east to point 3: 26°26'15" N, 81°56'36" W north to point 4: 26°26'42" N, 81°56'22" W and west to original point 1: 26°27'34" N, 81°58'22" W. All coordinates referenced use datum: NAD 83.

(b) Special local Regulations.

(1) Vessels and persons are prohibited from entering the air box area defined in paragraph (a)(2).

(2) No vessel may anchor/moor or transit within the regulated area defined in paragraph (a)(1), with the exception of vessel transit permitted in the marked channel as set forth in (b)(3) below.

(3) Vessels entering and exiting Matanzas Pass Channel will be allowed to transit using the marked channel only

at Matanzas Pass Channel day beacon #3 (26°25'54" N, 82°58'12" W, LLNR 16365) and day beacon #4 (26°26'06" N, 82°57'48" W, LLNR 16370) but may not linger within the regulated area. All coordinates referenced use datum: NAD 83.

(c) *Dates*. This section will be enforced annually on the second Friday, Saturday, and Sunday of May from 8:30 a.m. until 4:30 p.m.

Dated: March 24, 2005.

**D.B. Peterman,**

*RADM, U.S. Coast Guard, Commander,  
Seventh Coast Guard District.*

[FR Doc. 05-6477 Filed 3-31-05; 8:45 am]

**BILLING CODE 4910-15-P**

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## DEPARTMENT OF EDUCATION

### 34 CFR Chapter I

#### Individuals With Disabilities Education Act, as Amended by the Individuals With Disabilities Education Improvement Act of 2004

**AGENCY:** Office of Special Education and Rehabilitative Services (OSERS), Department of Education.

**ACTION:** Notice of public meetings.

**SUMMARY:** The Secretary announces plans to hold a series of public meetings to seek comments and suggestions about proposed regulations, which the Secretary intends to publish in a Notice of Proposed Rule Making (NPRM) in the Spring of 2005, to implement programs under the recently amended IDEA.

**DATES:** The public meetings will be held from 1 p.m. to 4 p.m. and from 5 p.m. to 7 p.m.:

Monday, June 6, 2005 in San Antonio, TX;

Friday, June 17, 2005 in Nashville, TN;

Wednesday, June 22, 2005 in

Sacramento, CA;

Friday, June 24, 2005 in Las Vegas, NV;

Monday, June 27, 2005 in New York, NY;

Wednesday, June 29, 2005 in Chicago, IL; and

Tuesday, July 12, 2005 in Washington, DC.

**ADDRESSES:** OSERS will provide specific location information through the NPRM to be published in the **Federal Register** in the Spring of 2005.

Individuals who need accommodations for a disability in order to attend the meetings (*i.e.*, interpreting services, assistive listening devices, or material in alternative formats) should notify the contact person listed under **FOR FURTHER INFORMATION CONTACT**. The meeting locations will be accessible to individuals with disabilities.

**FOR FURTHER INFORMATION CONTACT:** Troy R. Justesen, Acting Deputy Assistant Secretary, Office of Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue, SW., room 5138, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245-7468.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On December 3, 2004, The President signed into law Public Law 108-446, the Individuals with Disabilities Education Improvement Act of 2004, amending the Individuals with Disabilities Education Act (IDEA). Copies of the new law may be obtained at the following Web site: <http://edworkforce.house.gov/issues/108th/education/idea/conferencereport/confrept.htm>.

Enactment of the new law provides an opportunity to consider improvements in the regulations implementing the IDEA (including both formula and discretionary grant programs) that would strengthen the Federal effort to ensure every child with a disability has available a free appropriate public education that is (1) of high quality, and (2) designed to achieve the high standards reflected in the No Child Left Behind Act of 2001 (NCLB) and regulations. The Secretary intends to publish an NPRM in the **Federal Register** in the Spring of 2005, proposing regulations to implement the new law.

**Announcement of Public Meetings:** OSERS will be holding a series of public meetings during June and July of calendar year 2005, to seek additional comments and suggestions from the public after developing and publishing proposed rules to implement programs under the recently amended IDEA.

This notice provides information about dates, locations and times of these public meetings (see **DATES** earlier in this notice).

**Electronic Access to this Document:** You may view this document, as well as all other documents this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: [www.ed.gov/news/fedregister](http://www.ed.gov/news/fedregister).

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: [www.gpoaccess.gov/nara/index.html](http://www.gpoaccess.gov/nara/index.html).

Dated: March 28, 2005.

**John H. Hager,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 05-6510 Filed 3-31-05; 8:45 am]

**BILLING CODE 4000-01-P**

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03-OAR-2005-PA-0006; FRL-7893-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Three Sources

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for three sources of volatile organic compounds (VOC). In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by May 2, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2005-PA-0006 by one of the following methods:

A. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.