

effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. It is purely administrative in nature and does not affect the existing rights of the public. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

The analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) are not applicable because notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law.

#### List of Subjects in 15 CFR Part 700

Administrative practice and procedure, Business and industry, Government contracts, National defense, Reporting and recordkeeping requirements, Strategic and critical materials.

■ For the reasons discussed in the preamble, the Department of Commerce amends 15 CFR part 700 as follows:

#### PART 700—DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM

■ 1. The authority citation for part 700 continues to read as follows:

**Authority:** Titles I and VII of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, *et seq.*), Title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195, *et seq.*), Executive Order 12919, 59 FR 29525, 3 CFR, 1994 Comp. 901, and Executive Order 13286, 68 FR 10619, 3 CFR, 2003 Comp. 166; section 18 of the Selective Service Act of 1948 (50 U.S.C. App. 468), 10 U.S.C. 2538, 50 U.S.C. 82, and Executive Order 12742, 56 FR 1079, 3 CFR, 1991 Comp. 309; and Executive Order 12656, 53 FR 226, 3 CFR, 1988 Comp. 585.

■ 2. In § 700.55, revise the second sentence in paragraph (a), revise paragraphs (b)(3), (4) and (5) and (c)(1), and add paragraph (d) to read as follows:

#### § 700.55 Assistance Programs with Canada and other nations.

(a) \* \* \* Although priority ratings have no legal authority outside of the United States, this section also provides information on how persons in the United States may obtain informal assistance in Canada, Italy, The Netherlands, Sweden, and the United Kingdom in support of approved programs.

(b) \* \* \*

(3) Any person in the United States ordering defense items in Canada in support of an approved program should inform the Canadian supplier that the

items being ordered are to be used to fill a rated order. The Canadian supplier should be informed that if production materials are needed from the United States by the supplier or the supplier's vendor to fill the order, the supplier or vendor should contact the Canadian Public Works and Government Services Canada, for authority to place rated orders in the United States: Public Works and Government Services Canada, Acquisitions Branch, Business Management Directorate, Phase 3, Place du Portage, Level 0A1, 11 Laurier Street, Gatineau, Quebec, K1A 0S5, Canada; telephone: (819) 956-6825; Fax: (819) 956-7827.

(4) Any person in Canada producing defense items for the Canadian government may also obtain priority rating authority for items to be purchased in the United States by applying to the Canadian Public Works and Government Services Canada, Acquisitions Branch, Business Management Directorate, in accordance with its procedures.

(5) Persons in Canada needing special priorities assistance in obtaining defense items in the United States may apply to the Canadian Public Works and Government Services Canada, Acquisitions Branch, Business Management Directorate, for such assistance. Public Works and Government Services Canada will forward appropriate requests to the U.S. Department of Commerce.

\* \* \* \* \*

#### (c) Foreign nations.

(1) Any person in a foreign nation other than Canada requiring assistance in obtaining defense items in the United States or priority rating authority for defense items to be purchased in the United States, should submit a request for such assistance or rating authority to the Office of the Deputy Under Secretary of Defense (Industrial Policy): Office of the Deputy Under Secretary of Defense (Industrial Policy), 3330 Defense Pentagon, Washington, DC 20301; telephone: (703) 697-0051; Fax: (703) 695-4277.

(i) If the end product is being acquired by a U.S. government agency, the request should be submitted to the Office of the Deputy Under Secretary of Defense (Industrial Policy) through the U.S. contract administration representative.

(ii) If the end product is being acquired by a foreign nation, the request must be sponsored prior to its submission to the Office of the Deputy Under Secretary of Defense (Industrial

Policy) by the government of the foreign nation that will use the end product.

\* \* \* \* \*

(d) *Requesting assistance in Italy, The Netherlands, Sweden, and the United Kingdom.*

(1) The U.S. Department of Defense has entered into bilateral security of supply arrangements with Italy, The Netherlands, Sweden, and the United Kingdom that allow the U.S. Department of Defense to request the priority delivery for U.S. Department of Defense contracts, subcontracts, and orders from companies in these countries.

(2) Any person in the United States requiring assistance in obtaining the priority delivery of a contract, subcontract, or order in Italy, The Netherlands, Sweden, or the United Kingdom to support an approved program should contact the Office of the Deputy Under Secretary of Defense (Industrial Policy) for assistance. Persons in Italy, The Netherlands, Sweden, and the United Kingdom should request assistance in accordance with § 700.55(c)(1).

Dated: September 8, 2006.

**Matthew S. Borman,**

*Deputy Assistant Secretary for Export Administration.*

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#### FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

#### 29 CFR Parts 2700, 2704, and 2705

#### Procedural Rules

**AGENCY:** Federal Mine Safety and Health Review Commission.

**ACTION:** Final rule; technical amendments.

**SUMMARY:** This document makes technical amendments to the Federal Mine Safety and Health Review Commission's procedural rules and regulations implementing the Equal Access to Justice Act and Privacy Act.

**DATES:** Effective October 3, 2006.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Stock, General Counsel, Office of the General Counsel, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001; telephone 202-434-9935; facsimile 202-434-9944.

#### SUPPLEMENTARY INFORMATION:

#### Background

On August 4, 2006, the Federal Mine Safety and Health Review Commission

published a final rule in the **Federal Register**, setting forth revisions to its procedural rules (29 CFR part 2700) and regulations implementing the Equal Access to Justice Act ("EAJA") (29 CFR part 2704) and Privacy Act (29 CFR part 2705). 71 FR 44190. This rule in part makes technical amendments that conform with changes made in the August 4 publication. In the August 4 final rule, the Commission amended 29 CFR 2704.104 by removing paragraph (b)(2), which provided for the aggregation of assets or employees of affiliates of a prevailing party to determine eligibility for an EAJA award. 71 FR 44203, 44210. The Commission also in part redesignated paragraphs (b)(3) and (b)(4) of § 2704.104 as paragraphs (b)(2) and (b)(3). 71 FR 44210. In these technical amendments, the Commission is revising 29 CFR 2704.202(b) and (c) to remove references to former section 2704.104(b)(2), and to "affiliates" described in former § 2704.104(b)(2).

In addition, this technical amendment corrects errors made in publications of prior years. Specifically, the Commission is revising the reference to "§ 1700.5(d)" set forth in 29 CFR 2700.5(b) to correctly state a reference to "§ 2700.5(e)." The Commission is also revising 29 CFR 2704.106(a) to insert the word "or" so that the paragraph reads in part that "[a]wards will be based on rates customarily charged by persons engaged in the business of or acting as attorneys, agents and expert witnesses." Further, the Commission is making three minor punctuation changes. First, the Commission is revising 29 CFR 2704.103(a)(3) by replacing the semi-colon at the end of the paragraph with a period. Second, the Commission is revising 29 CFR 2704.104(b)(1) by replacing the semi-colon at the end of the paragraph with a period. Third, the Commission is revising 29 CFR 2705.2(c) by replacing the period at the end of the paragraph with a semi-colon. Finally, the Commission is replacing the term "system or records" in 29 CFR 2705.2(d) with "system of records." All of the changes in this technical amendment are non-substantive.

#### List of Subjects

##### 29 CFR Part 2700

Administrative practice and procedure, Mine safety and health, Penalties, Whistleblowing.

##### 29 CFR Part 2704

Claims, Equal access to justice, Lawyers.

##### 29 CFR Part 2705

#### Privacy.

■ For the reasons stated in the preamble, the Commission amends 29 CFR parts 2700, 2704, and 2705 as follows:

#### PART 2700—PROCEDURAL RULES

■ 1. The authority citation for part 2700 continues to read as follows:

**Authority:** 30 U.S.C. 815, 820 and 823.

■ 2. The second sentence of paragraph (b) of § 2700.5 is revised to read as follows:

**§ 2700.5 General requirements for pleadings and other documents; status or informational requests.**

\* \* \* \* \*

(b) \* \* \* Documents filed with the Commission shall be addressed to the Executive Director and mailed or delivered to the Docket Office, Federal Mine Safety and Health Review Commission, 601 New Jersey Avenue, NW., Suite 9500, Washington, DC 20001; facsimile delivery as allowed by these rules (see § 2700.5(e)), shall be transmitted to (202) 434-9954. \* \* \*

#### PART 2704—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN COMMISSION PROCEEDINGS

■ 3. The authority citation for part 2704 continues to read as follows:

**Authority:** 5 U.S.C. 504(c)(1); Pub. L. 99-80, 99 Stat. 183; Pub. L. 104-121, 110 Stat. 862.

■ 4. Section 2704.103 is amended by revising paragraph (a)(3) to read as follows:

**§ 2704.103 Proceedings covered.**

(a) \* \* \*

(3) Challenges to claims of discrimination under section 105(c) of the Mine Act (30 U.S.C. 815(c)) where the Secretary of Labor represents the miner.

\* \* \* \* \*

■ 5. Section 2704.104 is amended by revising paragraph (b)(1) to read as follows:

**§ 2704.104 Eligibility of applicants.**

\* \* \* \* \*

(b) \* \* \*

(1) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

\* \* \* \* \*

■ 6. Paragraph (a) of § 2704.106 is revised to read as follows:

**§ 2704.106 Allowable fees and expenses.**

(a) Awards will be based on rates customarily charged by persons engaged in the business of or acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

\* \* \* \* \*

■ 7. Paragraphs (b) and (c) of § 2704.202 are revised to read as follows:

**§ 2704.202 Contents of application—where the applicant has prevailed.**

\* \* \* \* \*

(b) The application also shall include a statement that the applicant's net worth does not exceed \$2 million (if an individual) or \$7 million (for all other applicants).

(c) Each applicant must provide with its application a detailed exhibit showing the net worth of the applicant when the underlying proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The administrative law judge may require an applicant to file additional information to determine its eligibility for an award.

#### PART 2705—PRIVACY ACT IMPLEMENTATION

■ 8. The authority citation for part 2705 continues to read as follows:

**Authority:** 5 U.S.C. 552a; Pub. L. 93-579, 88 Stat. 1896.

■ 9. Paragraphs (c) and (d) of § 2705.2 are revised to read as follows:

**§ 2705.2 Definitions.**

\* \* \* \* \*

(c) The term *record* means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her employment history, payroll information, and financial transactions and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term *system of records* means a group of any records under control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying

particular assigned to the individual;  
and

\* \* \* \* \*

Dated: September 12, 2006.

**Michael F. Duffy,**

*Chairman, Federal Mine Safety and Health  
Review Commission.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[CGD05-06-066]

RIN 1625-AA08

#### Special Local Regulations for Marine Events; Sunset Lake, Wildwood Crest, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent special local regulations during the “Sunset Lake Hydrofest”, a marine event to be held annually on the last weekend in September or the first weekend in October on the waters of Sunset Lake, Wildwood Crest, New Jersey. For 2006 this marine event will be held on September 30 and October 1, 2006. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of Sunset Lake during the event.

**DATES:** This rule is effective September 20, 2006. In 2006 this rule will be enforced from 8:30 a.m. on September 30, 2006 to 5:30 p.m. on October 1, 2006. For subsequent years this rule will be enforced annually from 8:30 a.m. to 5:30 p.m. on the last weekend in September or the first weekend in October.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket (CGD05-06-066) and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398-6204.

#### SUPPLEMENTARY INFORMATION:

### Regulatory Information

On July 13, 2006, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Sunset Lake, Wildwood Crest, NJ in the **Federal Register** (71 FR 39609). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, support craft and other vessels transiting the event area. However, advance notifications will be made to affected waterway users via marine information broadcasts and area newspapers.

### Background and Purpose

Annually, the Sunset Lake Hydrofest Association sponsors the “Sunset Lake Hydrofest”, on the waters of Sunset Lake near Wildwood Crest, New Jersey. The event consists of approximately 100 inboard hydroplanes, Jersey speed skiffs and flat-bottom ski boats racing in heats counter-clockwise around an oval racecourse. A fleet of approximately 100 spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

### Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the Notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing permanent special local regulations on the specified waters of Sunset Lake, Wildwood Crest, New Jersey.

### 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.

Although this permanent rule will prevent traffic from transiting a portion of Sunset Lake during the event, the effect of this regulation would not be significant due to the limited duration that the regulated area will be in effect. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit Sunset Lake by navigating around the regulated area.

### 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 would not have a significant economic impact on a substantial number of small entities. This rule would affect 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 Sunset Lake during the event.

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule would be in effect for only a limited period. Vessel traffic could pass safely around the regulated area. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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