

taxpayers may submit comments electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at [http://www.irs.ustreas.gov/prod/tax\\_regs/comments.html](http://www.irs.ustreas.gov/prod/tax_regs/comments.html).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Linda S. F. Marshall, (202) 622-6030; concerning submissions, Evangelista Lee, (202) 622-7190 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### Background

Final and temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 401(b). The regulations provide guidance to clarify the scope of the Commissioner's authority to provide relief from plan disqualification under section 401(b) and the regulations.

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the final and temporary regulations explains the temporary regulations.

##### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

##### Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and

place for the hearing will be published in the **Federal Register**.

##### Drafting Information

The principal author of these regulations is Linda S. F. Marshall, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

##### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

##### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

##### PART 1—INCOME TAXES

**Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

**Par. 2.** Section 1.401(b)-1 is amended by:

1. Revising paragraphs (b)(3), (c) and (d)(1)(iv).
2. Adding paragraph (d)(1)(v).

The addition and revisions read as follows:

##### § 1.401(b)-1 Certain retroactive changes in plan.

[The text of proposed paragraphs (b)(3), (c), (d)(1)(iv) and (v) is the same as the text of § 1.401(b)-1T(b)(3), (c), (d)(1) (iv) and (v) published elsewhere in this issue of the **Federal Register**.]

**Michael P. Dolan,**

*Acting Commissioner of Internal Revenue.*

[FR Doc. 97-20038 Filed 7-31-97; 8:45 am]

BILLING CODE 4830-01-U

#### DEPARTMENT OF DEFENSE

##### Office of the Secretary

##### 32 CFR Part 311

##### Privacy Program

**AGENCY:** Office of the Secretary, DOD.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of the Secretary of Defense proposes to exempt a system of records identified as DUSP 11, entitled POW/Missing Personnel Office Files. The exemption is needed to protect information properly classified under E.O. 12958, Classified National Security Information.

**DATES:** Comments must be received no later than September 30, 1997, to be considered by the agency.

**ADDRESSES:** Send comments to the OSD Privacy Act Officer, Washington Headquarter Services, Correspondence and Directives Division, Records Management Division, 1155 Defense Pentagon, Washington, DC 20301-1155. **FOR FURTHER INFORMATION CONTACT:** Mr. David Bosworth at (703) 695-0970.

**SUPPLEMENTARY INFORMATION: Executive Order 12866.** It has been determined that this Privacy Act proposed rule for the Department of Defense does not constitute 'significant regulatory action'. Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

**Regulatory Flexibility Act.** It has been determined that this Privacy Act proposed rule for the Department of Defense does not have significant economic impact on a substantial number of small entities because it is concerned only with the administration of Privacy Act systems of records within the Department of Defense.

**Paperwork Reduction Act.** It has been determined that this Privacy Act proposed rule for the Department of Defense imposes no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act, and 44 U.S.C. Chapter 35.

##### List of Subjects in 32 CFR part 311

Privacy.

Accordingly, 32 CFR part 311 is amended as follows:

1. The authority citation for 32 CFR part 311 continues to read as follows:

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

2. Section 311.7, is amended by adding paragraphs (c)(11)(i) through (c)(11)(iii) to read as follows:

##### § 311.7 Procedures for exemptions.

\* \* \* \* \*

(c) \* \* \*

(11) *System identifier and name:* DUSP 11, POW/Missing Personnel Office Files.

(i) *Exemption:* Information classified under E.O. 12958, as implemented by DoD 5200.1-R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

(ii) *Authority*: 5 U.S.C. 552a(k)(1).

(iii) *Reasons*: From subsection 5 U.S.C. 552a(d) because granting access to information that is properly classified pursuant to E.O. 12958, as implemented by DoD 5200.1-R, may cause damage to the national security.

\* \* \* \* \*

Dated: July 28, 1997.

**L. M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense*

[FR Doc. 97-20267 Filed 7-31-97; 8:45 am]

BILLING CODE 5000-04-F

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-97-071]

RIN 2121-AA97

#### **Safety Zone: New York Super Boat Race, New York**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone in the lower Hudson River, for the New York Super Boat Race. The proposed safety zone would restrict vessel traffic in the Lower Hudson River between Battery Park and Pier 76 in Manhattan.

**DATES:** Comments must be received on or before September 2, 1997. The temporary safety zone would be in effect on Sunday, September 7, 1997, from 12 p.m. until 4 p.m.

**ADDRESSES:** Comments should be mailed to Lieutenant Junior Grade Dave Gefell, Waterways Oversight Branch, Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Dave Gefell, Waterways Oversight Branch, Coast Guard Activities New York, (718) 354-4195.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments.

Persons submitting comments should include their names and addresses, identify this notice (CGD01-97-071) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Persons wanting acknowledgement of receipt of

comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing; however, persons may request a public hearing by writing to the Waterways Oversight Branch at the address under **ADDRESSES**. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

##### **Background and Purpose**

Super Boat International Productions, Inc. has submitted an Application for Approval of Marine Event for a Super Boat Race in the waters of the Lower Hudson River. This regulation would establish a temporary safety zone in the waters of the Lower Hudson River south of a line drawn from pier 76 in Manhattan and a point in Weehawken, New Jersey at 40°45'52"N latitude, 074°01'01"W longitude, and north of a line connecting the following points:

Latitude	Longitude
40°42'16.0" N	074°01'09.0" W, then south to
40°41'55.0" N	074°01'16.0" W, then west to
40°41'47.0" N	074°01'36.0" W, then north-
	west to
40°41'55.0" N	074°01'59.0" W, then to shore
	at
40°42'20.5" N	074°02'06.0" W

The safety zone would be effective on Sunday, September 7, 1997, from 12 p.m. until 4 p.m. This safety zone would restrict vessel traffic in the Lower Hudson River south of a line drawn from Pier 76 in Manhattan to a point located directly opposite on the New Jersey shoreline and north of a line drawn between Battery Park in Manhattan and the southern most point of Ellis Island in the Upper New York Bay. This safety zone is needed to protect mariners from the hazards associated with a boat race in which the participants transit at excessive speeds.

This event will include up to 40 powerboats, 24 to 50 feet in length, racing on an 8 mile oval course at speeds in excess of 100 mph. No more than 100 spectator craft are expected for the event.

##### **Regulatory Evaluation**

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not

significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Although this regulation would prevent traffic from transiting this area, the effect of this regulation would not be significant for several reasons: The volume of commercial vessel traffic transiting the Lower Hudson River on a Sunday is less than half of the normal daily traffic volume; pleasure craft desiring to view the event will be directed to designated spectator viewing areas outside the safety zone; pleasure craft can take an alternate route through the East River and the Harlem River; the duration of the event is limited to four hours; the extensive advisories which will be made to the affected maritime community by Local Notice to Mariners, Safety Voice Broadcast, and facsimile notification.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (21 U.S.C. 632).

For reasons set forth in the above Regulatory Evaluation, the Coast Guard expects the impact of this proposal to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have significant economic impact on your business or organization, please submit a comment explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

##### **Collection of Information**

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

##### **Federalism**

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive