

Department of Labor, 200 Constitution Avenue, NW., Room N-2625, Washington, DC 20210, telephone (202) 693-2350. Note that receipt of comments submitted by mail may be delayed by several weeks.

By fax, written comments that are 10 pages or fewer, may be transmitted to the OSHA Docket Office at telephone number (202) 693-1648.

By email, comments may be submitted through OSHA's Homepage at ecomments.osha.gov. Please note that you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, clearly identify your electronic comments by name, date, subject, and Docket Number, so that we can attach the materials to your electronic comments.

FOR FURTHER INFORMATION CONTACT:

Mark Hagemann, Office of Construction Standards and Compliance Assistance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3468, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: (202) 693-2345.

SUPPLEMENTARY INFORMATION: On July 16, 2002, OSHA published a **Federal Register** notice of intent to establish a negotiated rulemaking committee (67 FR 46612). The notice requested nominations for membership on the Committee and comments on the appropriateness of using negotiated rulemaking to develop a crane and derrick proposed rule. In addition, the notice described the negotiated rulemaking process and identified some key issues for negotiation.

Fifty-five nominations for membership on the Committee and several comments were received during the comment period. There was broad support for using negotiated rulemaking to update the standard. OSHA has decided to go forward with the negotiated rulemaking process. The Agency has developed the following proposed list of Committee members:

Manufacturers and Suppliers

Michael Brunet, Manitowoc Cranes, Inc., 2401 S. 30th Street, Manitowoc, WI 54220.

Peter Juhren, Morrow Equipment Company, L.L.C., 3218 Pringle Road, SE., Salem, OR 97302.

Larry Means, Wire Rope Technical Board, 801 North Fairfax Street, Suite 211, Alexandria, VA 22314.

Lessors/Maintenance

William Smith, Maxim Crane Works, 508-C DiGiulian Blvd., Glen Burnie, MD 21061.

Users—Employers

Joseph Collins, Zachry Construction Corporation, P.O. Box 240130, San Antonio, TX 78224.

Brian Murphy, Sundt Corporation, 4101 E Irvington Road, Tucson, AZ 85726.

George R. "Chip" Pocock, C.P. Buckner Steel Erection, P.O. Box 598, Graham, NC 27253.

Craig Steele, Schuck & Sons Construction Company, Inc., 8205 North 67th Avenue, Glendale, AZ 85302.

Darlaine Taylor, Century Steel Erectors, Inc., 210 Washington Avenue, Dravosburg, Pennsylvania 15034.

William J. "Doc" Weaver, 8065 S. Overhill Circle, Salt Lake City, UT 84121.

Robert Weiss, Cranes Inc. and A.J. McNulty & Company, Inc., 53-20 44th Street, Maspeth NY 11378.

Stephen Wiltshire, Shirley Contracting Corporation, 6108 Waterman Drive, Fredericksburg, VA 22407.

Users—Labor Organizations

Frank Migliaccio, International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, 1750 New York Ave., NW., Suite 400, Washington, DC 20006.

Dale Shoemaker, Carpenters International Training Center, 6801 Placid Street, Las Vegas, NV 89119.

Operators—Labor Organizations

Stephen Brown, International Union of Operating Engineers, 1125 17th Street, NW., Washington, DC 20036.

Emmett Russell, International Union of Operating Engineers, 1125 17th Street, NW., Washington, DC 20036.

Government/Public Entities

Noah Connell, U.S. Department of Labor/OSHA, 200 Constitution Ave., NW., Room N-3467, Washington, DC 20210.

Training and Operator Testing

David Ritchie, The St. Paul Companies, P.O. Box 1419, Bastrop, TX 78602.

Power line Owners

Michael Hyland, American Public Power Association, 2301 m Street, NW., Washington, DC 20037.

Insurance

Charles Yorio, Acordia, Two Gateway Center, 603 Stanwix Street, Suite 1900, Pittsburgh, PA 15222.

After evaluating the comments on the proposed list of Committee members,

OSHA will publish a notice of establishment of the Cranes and Derricks Negotiated Rulemaking Advisory Committee followed by a notice of the first Committee meeting and appointment of members.

Authority: This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to section 3 of the Negotiated Rulemaking Act of 1990, (5 U.S.C. 561 *et seq.*), FACA (5 U.S.C. Appendix 2), the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*), and Secretary of Labor's Order No. 3-2000 (65 FR 50017, Aug. 16, 2000).

Signed in Washington, DC, this 19th day of February, 2003.

John L. Henshaw,

Assistant Secretary of Labor for Occupational Safety and Health.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05-03-013]

RIN 2115-AE46

Special Local Regulations for Marine Events; Delaware River, Pea Patch Island to Delaware City, DE

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local regulations for marine events held on the waters of the Delaware River between Pea Patch Island and Delaware City, Delaware. These special local regulations are necessary to provide for the safety of life on navigable waters during the events. This action is intended to restrict vessel traffic in a portion of the Delaware River between Pea Patch Island and Delaware City during the events.

DATES: Comments and related material must reach the Coast Guard on or before April 28, 2003.

ADDRESSES: You may mail comments and related material to Commander (oax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, hand-deliver them to Room 119 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398-6203. The Auxiliary and Recreational Boating Safety Section,

Fifth Coast Guard District, 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 the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S.L. Phillips, Project Manager, Auxiliary and Recreational Boating Safety Section, at (757) 398-6204.

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 (CGD05-03-013), 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 the address listed 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

Each year during the months of June and September, marine events are conducted on a portion of the Delaware River between Pea Patch Island and Delaware City, Delaware. The events consist of 175 to 800 athletes swimming from Fort Delaware on Pea Patch Island to Battery Park in Delaware City. A fleet of spectator vessels gathers nearby to view the swimming events. To provide for the safety of participants, spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the events.

Discussion of Proposed Rule

The Coast Guard proposes to establish permanent special local regulations on

specified waters of the Delaware River between Pea Patch Island and Delaware City, Delaware. The special local regulations will be enforced only during the swimming events; a 2-hour period in June and a 2-hour period in September. The effect will be to restrict general navigation in the regulated area during the events. Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

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 Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

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

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 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 the Delaware River on the third Saturday of June or September.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would be in effect for only 2 hours on 2 days each year. Vessel traffic could pass safely around the regulated area. Before the enforcement period, we would issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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 address listed under **ADDRESSES**.

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 will 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraphs (34)(h) and (35)(a) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade permit for an event not located in, proximate to, or above an area designated as environmentally sensitive by an environmental agency of the Federal, state, or local government, are specifically excluded from further analysis and documentation under those sections. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

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—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46.

2. A new § 100.529 is added to read as follows:

§ 100.529 Delaware River, Pea Patch Island to Delaware City, Delaware.

(a) *Definitions*—(1) *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 Commander, Coast Guard Group Philadelphia.

(2) *Official Patrol*. The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Group Philadelphia with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Regulated area*. All waters of the Delaware River between Pea Patch Island and Delaware City, Delaware, bounded by a line connecting the following points:

Latitude	Longitude
39°36'35.7" North	075°35'25.6" West, to
39°34'57.3" North	075°33'23.1" West, to
39°34'11.9" North	075°34'28.6" West, to
39°35'52.4" North	075°36'33.9" West.

All coordinates reference Datum NAD 1983.

(b) *Special local regulations*. (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Enforcement period*. This section will be enforced annually for a 2-hour period on the third Saturday in June and for a 2-hour period on the third Saturday in September. Notice of the enforcement period will be given via Marine Safety Radio Broadcast on VHF-FM marine band radio, Channel 22 (157.1 MHz).

Dated: February 18, 2003.

James D. Hull,

*Vice Admiral, U.S. Coast Guard ,
Commander, Fifth Coast Guard District.*

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-03-001]

RIN 2115-AA97

Security Zones; Passenger Vessels, Portland, ME, Captain of the Port Zone

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish moving and fixed security zones around high capacity passenger vessels, including international ferries, located in the Portland, Maine, Captain of the Port zone. These proposed security zones are necessary to ensure public safety and prevent sabotage or terrorist acts against these vessels. When