

(b) *To whom applicable.* This section applies to any practitioner who, within 5 years of the date a complaint instituting a proceeding under this section is served:

(1) Has had his or her license to practice as an attorney, certified public accountant, or actuary suspended or revoked for cause (not including a failure to pay a professional licensing fee) by any authority or court, agency, body, or board described in § 10.51(i); or

(2) Has, irrespective of whether an appeal has been taken, been convicted of any crime under title 26 of the United States Code, any crime involving dishonesty or breach of trust, or any felony for which the conduct involved renders the practitioner unfit to practice before the Internal Revenue Service.

(3) Has violated conditions designed to promote high standards of conduct established pursuant to § 10.79(d).

(c) *Instituting a proceeding.* A proceeding under this section will be instituted by a complaint that names the respondent, is signed by the Director of Practice or a person representing the Director of Practice under § 10.69(a)(1), is filed in the Director of Practice's office, and is served according to the rules set forth in paragraph (a) of § 10.63. The complaint must give a plain and concise description of the allegations that constitute the basis for the proceeding. The complaint must notify the respondent—

(1) Of the place and due date for filing an answer;

(2) That a decision by default may be rendered if the respondent fails to file an answer as required;

(3) That the respondent may request a conference with the Director of Practice to address the merits of the complaint and that any such request must be made in the answer; and

(4) That the respondent may be suspended either immediately following the expiration of the period within which an answer must be filed or, if a conference is requested, immediately following the conference.

(d) *Answer.* The answer to a complaint described in this section must be filed no later than 30 calendar days following the date the complaint is served, unless the Director of Practice extends the time for filing. The answer must be filed in accordance with the rules set forth in § 10.64, except as otherwise provided in this section. A respondent is entitled to a conference with the Director of Practice only if the conference is requested in a timely filed answer. If a request for a conference is not made in the answer or the answer is not timely filed, the respondent will be deemed to have waived his or her

right to a conference and the Director of Practice may suspend such respondent at any time following the date on which the answer was due.

(e) *Conference.* The Director of Practice or his or her designee will preside at a conference described in this section. The conference will be held at a place and time selected by the Director of Practice, but no sooner than 14 calendar days after the date by which the answer must be filed with the Director of Practice, unless the respondent agrees to an earlier date. An authorized representative may represent the respondent at the conference. Following the conference, upon a finding that the respondent is described in paragraph (b) of this section, or upon the respondent's failure to appear at the conference either personally or through an authorized representative, the Director of Practice may immediately suspend the respondent from practice before the Internal Revenue Service.

(f) *Duration of suspension.* A suspension under this section will commence on the date that written notice of the suspension is issued. A practitioner's suspension will remain effective until the earlier of the following—

(1) The Director of Practice lifts the suspension after determining that the practitioner is no longer described in paragraph (b) of this section or for any other reason; or

(2) The suspension is lifted by an Administrative Law Judge or the Secretary of the Treasury in a proceeding referred to in paragraph (g) of this section and instituted under § 10.60.

(g) *Proceeding instituted under § 10.60.* If the Director of Practice suspends a practitioner under this section, the practitioner may ask the Director of Practice to issue a complaint under § 10.60. The request must be made in writing within 2 years from the date on which the practitioner's suspension commences. The Director of Practice must issue a complaint requested under this paragraph within 30 calendar days of receiving the request.

## Subpart E—General Provisions

### § 10.90 Records.

*Availability.* The Director of Practice will make available for public inspection at the Office of Director Practice the roster of all persons enrolled to practice, the roster of all persons censured, suspended, or disbarred from practice before the Internal Revenue Service, and the roster of all disqualified appraisers. Other

records of the Director of Practice may be disclosed upon specific request, in accordance with the applicable disclosure rules of the Internal Revenue Service and the Treasury Department.

### § 10.91 Saving clause.

Any proceeding instituted under regulations in effect prior to July 26, 2002 that is not final prior to July 26, 2002 will not be affected by this part and will apply the rules set forth at 31 CFR part 10 revised as of July 1, 2002. Any proceeding under this part based on conduct engaged in prior to July 26, 2002, which is instituted after that date, shall apply Subpart D and E of this part, but the conduct engaged in prior to July 26, 2002 shall be judged by the regulations in effect at the time the conduct occurred.

### § 10.92 Special orders.

The Secretary of the Treasury reserves the power to issue such special orders as he or she deems proper in any cases within the purview of this part.

### § 10.93 Effective date.

Subject to § 10.91, this part is applicable on July 26, 2002.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: July 17, 2002.

**David Aufhauser,**

*General Counsel, Office of the Secretary*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 100

[CGD05–02–049]

RIN 2115–AE46

### Special Local Regulations for Marine Events; Prospect Bay, Kent Island Narrows, MD

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary special local regulations during the “Thunder on the Narrows” boat races, a marine event to be held on the waters of Prospect Bay near Kent Island Narrows, Maryland. 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 Prospect Bay during the event.

**DATES:** This rule is effective from 9:30 a.m. (local time) on August 3, 2002 to 6:30 p.m. (local time) on August 4, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket CGD05-02-049 and are available for inspection or copying at Commander (Aoax), 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:** Ronald Houck, Marine Information Specialist, Commander, Coast Guard Activities Baltimore, at (410) 576-2674.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The event will begin on Saturday, August 3, 2002. There is not sufficient time to allow for an appropriate notice and comment period, prior to the event. Because of the danger inherent in high-speed boat races, special local regulations are necessary to provide for the safety of participants, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event. In addition, advance notifications will be made via the Local Notice to Mariners, marine information broadcasts, and area newspapers.

**Background and Purpose**

On August 3 and August 4, 2002, the Kent Narrows Racing Association will sponsor the "Thunder on the Narrows" powerboat races, on the waters of Prospect Bay, Kent Island Narrows, Maryland. The event will consist of 75 Hydroplanes and Jersey Speed Skiffs racing in heats counter-clockwise around an oval racecourse. A large fleet of spectator vessels is anticipated. Due to the need for vessel control during the races, vessel traffic will be temporarily restricted to provide for the safety of spectators, participants and transiting vessels.

**Discussion of Rule**

The Coast Guard is establishing temporary special local regulations on specified waters of Prospect Bay. The temporary special local regulations will be enforced from 9:30 a.m. to 6:30 p.m.

local time on both August 3 and August 4, 2002. The effect will be to restrict general navigation in the regulated areas during the event. Except for participants in the "Thunder on the Narrows" powerboat races and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. The Patrol Commander will allow non-participating vessels to transit the event area between races. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

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

Although this rule prevents traffic from transiting a portion of Prospect Bay during the event, the effect of this rule will not be significant due to the limited duration of the regulation, the fact that the Patrol Commander will allow non-participating vessels to transit the event area between races, 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.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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 will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of Prospect Bay during the event.

Although this rule prevents traffic from transiting or anchoring in a portion of Prospect Bay during the event, the effect of this rule will not be significant because of its limited duration, the fact that the Patrol Commander will allow non-participating vessels to transit the event area between races, 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.

**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 temporary 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**.

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 and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

**Collection of Information**

This rule calls 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 law or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this 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 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 rule will 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial and 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 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 prepared an "Environmental Assessment" in accordance with Commandant Instruction M16475.1C,

and determined that this rule will not significantly affect the quality of the human environment. The "Environmental Assessment" and "Finding of No Significant Impact" 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 amends 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. From 9:30 a.m. (local time) on August 3, 2002 to 6:30 p.m. (local time) on August 4, 2002, add temporary section § 100.35–T05–049 to read as follows:

#### § 100.35–T05–049 Prospect Bay, Kent Island Narrows, Maryland.

(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 Activities Baltimore.

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

(3) *Participant.* Includes all vessels participating in the Thunder on the Narrows Hydroplane Races under the auspices of the Marine Event Permit, issued to the Event Sponsor and approved by Commander, Coast Guard Activities Baltimore.

(b) *Regulated area.* Includes all waters of Prospect Bay enclosed by a line connecting the following points: starting at

Latitude	Longitude
38°57'52.0" N,	076°14'48.0" W, thence to
38°58'02.0" N,	076°15'05.0" W, thence to
38°57'38.0" N,	076°15'29.0" W, thence to
38°57'28.0" N,	076°15'23.0" W, thence to
38°57'52.0" N,	076°14'48.0" W.

All coordinates reference Datum NAD 1983.

(c) *Special local regulations:*

(1) 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.

(2) The operator of any vessel in these areas shall:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(d) *Enforcement period.* This section will be enforced from 9:30 a.m. to 6:30 p.m. local time on August 3 and August 4, 2002.

Dated: July 16, 2002.

**James D. Hull,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD01–02–077]

#### Drawbridge Operation Regulations: Hackensack River, NJ

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations governing the operation of the Route 1 & 9 Bridge, at mile 1.8, across the Hackensack River in New Jersey. This deviation allows the bridge owner to require a two-hour advance notice for bridge openings from July 12, 2002 through September 9, 2002. This action is necessary to facilitate scheduled bridge maintenance.

**DATES:** This deviation is effective from July 12, 2002 through September 9, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joe Arca, Project Officer, First Coast Guard District, at (212) 668–7165.

**SUPPLEMENTARY INFORMATION:** The Route 1 & 9 Bridge has a vertical clearance of 35 feet at mean high water, and 40 feet at mean low water in the closed position. The existing drawbridge operating regulations require the bridge to open on signal at all times.

The bridge owner, New Jersey Department of Transportation, requested a temporary deviation from the drawbridge operating regulations to facilitate scheduled structural maintenance, on the bridge.

This deviation from the operating regulations allows the bridge owner to require a two-hour advance notice for