

government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department of Justice has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

#### Executive Order 12988

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 concerning civil justice reform.

#### Paperwork Reduction Act of 1995

This proposed rule does not contain collection of information requirements and would not be subject to the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501–20).

#### List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

Accordingly, Title 28, Part 0, Subpart T of the Code of Federal Regulations is proposed to be amended as follows:

#### PART 0—[AMENDED]

1. The authority citation for part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

#### § 0.114 [Amended]

2. In § 0.114, paragraph (a)(3) is amended by removing the fee “\$45” and adding the fee “\$55” in its place wherever it occurs.

Dated: June 5, 2008.

**Michael B. Mukasey,**  
Attorney General.

[FR Doc. E8–13437 Filed 6–13–08; 8:45 am]

BILLING CODE 4410–04–P

## DEPARTMENT OF JUSTICE

### Bureau of Prisons

#### 28 CFR Part 549

[BOP–1088–P]

RIN 1120–AB20

#### Psychiatric Evaluation and Treatment

**AGENCY:** Bureau of Prisons, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Bureau of Prisons (Bureau) proposes to revise its regulations on providing psychiatric

treatment and medication to inmates. We propose these revised regulations to clarify and update the regulations in light of more recent caselaw.

**DATES:** Comments are due by August 15, 2008.

**ADDRESSES:** Our e-mail address is [BOPRULES@BOP.GOV](mailto:BOPRULES@BOP.GOV). Comments should be submitted to the Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First Street, NW., Washington, DC 20534. You may view an electronic version of this regulation at <http://www.regulations.gov>. You may also comment via the Internet to BOP at [BOPRULES@BOP.GOV](mailto:BOPRULES@BOP.GOV) or by using the [www.regulations.gov](http://www.regulations.gov) comment form for this regulation. When submitting comments electronically you must include the BOP Docket No. in the subject box.

**FOR FURTHER INFORMATION CONTACT:** Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

**SUPPLEMENTARY INFORMATION:** The Bureau proposes to revise its regulations on providing psychiatric treatment and medication to inmates. We published a proposed regulation document on this subject in the **Federal Register** on December 29, 2003 (68 FR 74892). We now withdraw that proposed regulation document and propose these revised regulations.

First, we rename the subpart “Psychiatric Evaluation and Treatment” to more accurately reflect the substance of the regulations. The previous title, “Administrative Safeguards for Psychiatric Treatment and Medication,” did not reflect the Bureau’s ability to conduct psychiatric evaluations before involuntary hospitalization in a suitable facility for care and treatment.

Below, we provide a section-by-section analysis of the proposed regulations.

**Section 549.40 Purpose and scope.** This section states that the purpose of the subpart is to describe procedures for voluntary and involuntary psychiatric evaluation, hospitalization, care, and treatment, in a suitable facility for persons in Bureau custody. These procedures are authorized by 18 U.S.C. Chapter 313 and 18 U.S.C. 4042.

Current 28 CFR 549.43 refers to Title 18 U.S.C. 4241–4247, which comprised Chapter 313. The Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109–248) (Walsh Act), enacted on July 27, 2006, amended title 18 of the United States Code, Chapter 313, to add a new section 4248, related to sexual offenders. We therefore refer now to 18 U.S.C. Chapter 313 as a whole, instead

of referring to specific sections of the statute.

This section also notes that this subpart applies to inmates in Bureau custody as defined by 28 CFR part 500, specifically § 500.1(c), which defines inmates as “all persons in the custody of the Federal Bureau of Prisons or Bureau contract facilities, including persons charged with or convicted of offenses against the United States; D.C. Code felony offenders; and persons held as witnesses, detainees, or otherwise.”

**Section 549.41 Hospitalization in a suitable facility.** This section explains that, as used in 18 U.S.C. Chapter 313 and this subpart, “hospitalization in a suitable facility” includes the Bureau’s designation of inmates to medical referral centers or correctional institutions which provide the required care or treatment.

**Section 549.42 Use of psychiatric medications.** This section describes how psychiatric medications will be used. Psychiatric medications will only be used for treatment of diagnosable mental illnesses and disorders, and their symptoms, for which such medication is accepted treatment, and that psychiatric medication will be administered only after following the applicable procedures in this subpart. This section is derived from current § 549.40.

In this regulation, we clarify that psychiatric medication is to be used only for a diagnosable psychiatric disorder or symptoms for which such medication is accepted treatment. Previously, the regulation allowed medication for “symptomatic behavior.” The word “symptoms” is more accurate medical terminology.

**Section 549.43 Transfer for psychiatric or psychological examination.** This section describes the Bureau’s transfer authority. Pursuant to 18 U.S.C. Chapter 229, Subchapter C (§ 3621(b)), the Bureau is authorized to transfer inmates between facilities. Accordingly, the Bureau may transfer an inmate to a suitable facility for psychiatric or psychological examination to determine whether hospitalization in a suitable facility for psychiatric care or treatment is needed.

**Section 549.44 Voluntary hospitalization in a suitable facility for psychiatric care or treatment, and voluntary administration of psychiatric medication.** This section derives from current § 549.41. In this section, we state that an inmate may be hospitalized in a suitable facility for psychiatric care or treatment after providing informed and voluntary consent when, in the professional medical judgment of qualified health services staff, such care or treatment is required and prescribed.

This section is revised to more closely conform with the language of 18 U.S.C. Chapter 313. We change the words “psychiatric treatment and medication” to “psychiatric hospitalization and treatment.” We also clarify that inmates may be voluntarily admitted for psychiatric hospitalization and treatment when determined necessary by qualified health services staff.

As current § 549.41 provides, this section likewise provides that an inmate may provide informed and voluntary consent to the administration of psychiatric medication which complies with the requirements of this subpart.

This section also more thoroughly describes voluntary consent, explaining that the inmate’s ability to provide informed and voluntary consent, both for hospitalization and for administration of psychiatric medications, will be assessed by qualified health services staff and documented in the inmate’s medical record.

*Section 549.45 Involuntary hospitalization in a suitable facility for psychiatric care or treatment.* This section derives from current § 549.42. Current § 549.42 describes procedures for involuntary admission of sentenced inmates, but does not describe procedures for unsentenced inmates.

In this section, we state that a court determination is necessary for involuntary hospitalization or commitment of inmates pursuant to 18 U.S.C. Chapter 313, who are in need of psychiatric care or treatment, but are unwilling or unable to voluntarily consent. Section 4245 in that chapter specifically provides for involuntary hospitalization by court order of a person serving a sentence of imprisonment if needed for psychiatric care or treatment.

This section also describes due process procedures for involuntary hospitalization of inmates who are not subject to hospitalization under 18 U.S.C. 4245 (because not serving a sentence of imprisonment), such as alien detainees subject to an order of deportation, exclusion or removal, material witnesses, contempt of court commitments, etc.

If an examiner determines pursuant to § 549.43 of this subpart that such an inmate should be hospitalized for psychiatric care or treatment, and the inmate is unwilling or unable to consent, the Bureau will provide the inmate with an administrative hearing to determine whether hospitalization for psychiatric care or treatment is warranted. The hearing will comply with the applicable procedural safeguards set forth in § 549.46(a).

However, the availability of this administrative hearing procedure in appropriate cases does not limit the Bureau’s ability to seek judicial hospitalization or commitment of inmates under any applicable provision of Chapter 313, such as judicial commitment of inmates, whether sentenced or unsentenced, as sexually dangerous persons under 18 U.S.C. 4248.

Finally, this regulation states that, following an inmate’s involuntary hospitalization for psychiatric care or treatment as provided in this subsection, psychiatric medication may be involuntarily administered only after following the additional administrative procedures provided in § 549.46 of this subpart.

*Section 549.46 Procedures for involuntary administration of psychiatric medication.* This section derives from current § 549.43.

Subsection (a) states that when an inmate is unwilling or unable to provide voluntary written informed consent for recommended psychiatric medication, the inmate will be scheduled for an administrative hearing, which will provide procedural safeguards as listed in current § 549.43. These safeguards appear almost verbatim in the proposed regulation, with some exceptions:

In subsection (a)(7), we remove “unable to function in the open population of a mental health referral center or a regular prison” as a separate basis to justify involuntary administration of medication. Under the proposed regulations, this reason may still justify involuntary psychiatric medication when otherwise part of an inmate’s grave disability. *See, e.g., U.S. v. Gonzalez-Aguilar*, 446 F.Supp. 2d 1099 (D.Ariz. 2006); *U.S. v. White*, 431 F.3d 431 (5th Cir. 2005).

Also in subsection (a)(7), we delete language that allowed the psychiatrist conducting an administrative hearing to determine whether medication is necessary to make an inmate competent to stand trial. This revision stems from the Supreme Court decision in *Sell v. U.S.*, 539 U.S. 166, 123 S.Ct. 2174 (2003). Under the *Sell* decision, where involuntary treatment is considered solely for the purpose of rendering the defendant competent to stand trial, only the trial court may order involuntary medication after applying the standards set forth by the *Sell* Court. This is reflected in subsection (b).

In subsection (a)(11), we state that if an inmate was afforded an administrative hearing which resulted in the involuntary administration of psychiatric medication, and the inmate subsequently consented to the

administration of such medication, and then later revokes his consent, a follow-up hearing will be held before resuming the involuntary administration of psychiatric medication. All such follow-up hearings will fully comply with the procedures otherwise outlined in subsection (a). This will ensure that the inmate receives administrative process whenever psychiatric medication is given involuntarily, regardless of whether the inmate received such medication voluntarily in the past.

Subsection (b) restates exceptions found in current § 549.43(b) and (c) to the above procedural safeguards. The Bureau may involuntarily administer psychiatric medication to inmates, without following the procedures outlined above, in psychiatric emergencies and in the case of a court order for the purpose of restoring a person’s competency to stand trial. Subsection (b)(2) states that, absent a psychiatric emergency as defined in (b)(1), the involuntary medication procedures in (a) do not apply to the involuntary administration of psychiatric medication for the sole purpose of restoring a person’s competency to stand trial. Only a federal court of competent jurisdiction may order the involuntary administration of psychiatric medication for the sole purpose of restoring a person’s competency to stand trial.

Current § 549.43(c) states that procedures in this section do not apply to military prisoners, unsentenced Immigration and Naturalization detainees, unsentenced prisoners in Bureau custody, and District of Columbia Code offenders. We delete this language for the following reasons:

First, proposed § 549.45(b) provides procedures for inmates in Bureau custody who are not otherwise subject to hospitalization pursuant to 18 U.S.C. Chapter 313. We do not, therefore, need to have an exception to the procedural safeguards for unsentenced immigration detainees or other unsentenced inmates in Bureau custody.

Secondly, 18 U.S.C. Chapter 313 and various Federal court decisions required certain due process procedures before involuntary hospitalization or involuntary psychiatric treatment. Under former 18 U.S.C. 4247(j), these due process procedures did not apply to military prisoners or DC Code violators.

However, new 10 U.S.C. 876b provides that military prisoners who are incompetent to stand trial or who have been found not guilty by reason of lack of mental responsibility may be committed to the custody of the Attorney General and that the

procedures authorized under 18 U.S.C. 4241(d), 4246, and 4243 apply. Likewise, under new 18 U.S.C. 4247(j), DC Code violators are subject to commitment procedures specified at 18 U.S.C. 4245 and 4246. Accordingly, we revise the list of exceptions in 28 CFR 549.43(c) to remove the reference to military prisoners and D.C. Code felony offenders.

#### Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review", section 1(b), Principles of Regulation. The Director has determined that this regulation is not a "significant regulatory action" under Executive Order 12866, section 3(f), and accordingly this regulation has not been reviewed by the Office of Management and Budget.

#### Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Regulatory Flexibility Act

The Director, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This regulation pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director, and its economic impact is limited to the Bureau's appropriated funds.

#### Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Small Business Regulatory Enforcement Fairness Act of 1996

This regulation is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This regulation will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### List of Subjects in 28 CFR Part 549

Prisoners.

Harley G. Lappin,

Director, Bureau of Prisons.

Under the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we propose to amend 28 CFR part 549 as follows.

#### PART 549—MEDICAL SERVICES

1. Revise the authority citation for 28 CFR part 549 to read as follows:

**Authority:** 5 U.S.C. 301; 10 U.S.C. 876b; 18 U.S.C. 3621, 3622, 3524, 4001, 4005, 4042, 4045, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), Chapter 313, 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

2. Revise subpart C of part 549 to read as follows:

##### Subpart C—Psychiatric Evaluation and Treatment

Sec.

- 549.40 Purpose and scope.
- 549.41 Hospitalization in a suitable facility.
- 549.42 Use of psychiatric medications.
- 549.43 Transfer for psychiatric or psychological examination.
- 549.44 Voluntary hospitalization in a suitable facility for psychiatric care or treatment and voluntary administration of psychiatric medication.
- 549.45 Involuntary hospitalization in a suitable facility for psychiatric care or treatment.
- 549.46 Procedures for involuntary administration of psychiatric medication.

##### Subpart C—Psychiatric Evaluation and Treatment

#### § 549.40 Purpose and scope.

(a) This subpart describes procedures for voluntary and involuntary psychiatric evaluation, hospitalization, care, and treatment, in a suitable facility, for persons in Bureau of Prisons (Bureau) custody. These procedures are authorized by 18 U.S.C. Chapter 313 and 18 U.S.C. 4042.

(b) This subpart applies to *inmates* in Bureau custody, as that term is defined in 28 CFR part 500.

#### § 549.41 Hospitalization in a suitable facility.

As used in 18 U.S.C. Chapter 313 and this subpart, "hospitalization in a suitable facility" includes the Bureau's designation of inmates to medical referral centers or correctional institutions which provide the required care or treatment.

#### § 549.42 Use of psychiatric medications.

Psychiatric medications will be used only for treatment of diagnosable mental illnesses and disorders, and their symptoms, for which such medication is accepted treatment. Psychiatric medication will be administered only after following the applicable procedures in this subpart.

#### § 549.43 Transfer for psychiatric or psychological examination.

The Bureau may transfer an inmate to a suitable facility for psychiatric or psychological examination to determine whether hospitalization in a suitable facility for psychiatric care or treatment is needed.

#### § 549.44 Voluntary hospitalization in a suitable facility for psychiatric care or treatment, and voluntary administration of psychiatric medication.

(a) *Hospitalization.* An inmate may be hospitalized in a suitable facility for psychiatric care or treatment after providing informed and voluntary consent when, in the professional medical judgment of qualified health services staff, such care or treatment is required and prescribed.

(b) *Psychiatric medication.* An inmate may also provide informed and voluntary consent to the administration of psychiatric medication which complies with the requirements of § 549.42 of this subpart.

(c) *Voluntary consent.* An inmate's ability to provide informed and voluntary consent for both hospitalization in a suitable facility for psychiatric care or treatment, and administration of psychiatric medications, will be assessed by qualified health services staff and documented in the inmate's medical record. Additionally, the inmate must sign a consent form to accept hospitalization in a suitable facility for psychiatric care or treatment and the administration of psychiatric medications. These forms will be maintained in the inmate's medical record.

**§ 549.45 Involuntary hospitalization in a suitable facility for psychiatric care or treatment.**

(a) *Hospitalization of inmates pursuant to 18 U.S.C. Chapter 313.* A court determination is necessary for involuntary hospitalization or commitment of inmates pursuant to 18 U.S.C. Chapter 313, who are in need of psychiatric care or treatment, but are unwilling or unable to voluntarily consent.

(b) *Hospitalization of inmates not subject to hospitalization pursuant to 18 U.S.C. Chapter 313.* Pursuant to 18 U.S.C. 4042, the Bureau is authorized to provide for the safekeeping, care, and subsistence, of all persons charged with offenses against the United States, or held as witnesses or otherwise. Accordingly, if an examiner determines pursuant to § 549.43 of this subpart that an inmate not subject to hospitalization pursuant to 18 U.S.C. Chapter 313 should be hospitalized for psychiatric care or treatment, and the inmate is unwilling or unable to consent, the Bureau will provide the inmate with an administrative hearing to determine whether hospitalization for psychiatric care or treatment is warranted. The hearing will comply with the applicable procedural safeguards set forth in § 549.46(a).

(c) *Psychiatric medication.* Following an inmate's involuntary hospitalization for psychiatric care or treatment as provided in this section, psychiatric medication may be involuntarily administered only after following the administrative procedures provided in § 549.46 of this subpart.

**§ 549.46 Procedures for involuntary administration of psychiatric medication.**

Except as provided in paragraph (b) of this section, the Bureau will follow the administrative procedures of paragraph (a) of this section before involuntarily administering psychiatric medication to any inmate.

(a) *Procedures.* When an inmate is unwilling or unable to provide voluntary written informed consent for recommended psychiatric medication, the inmate will be scheduled for an administrative hearing. The hearing will provide the following procedural safeguards:

- (1) Unless an exception exists as provided in paragraph (b) of this section, the inmate will not be involuntarily administered psychiatric medication before the hearing.
- (2) The inmate must be provided 24-hours advance written notice of the date, time, place, and purpose, of the hearing, including an explanation of the

reasons for the psychiatric medication proposal.

(3) The inmate must be informed of the right to appear at the hearing, to present evidence, to have a staff representative, to request witnesses, and to request that witnesses be questioned by the staff representative or by the person conducting the hearing. If the inmate does not request a staff representative, or requests a staff representative with insufficient experience or education, or one who is not reasonably available, the institution mental health division administrator must appoint a qualified staff representative.

(4) The hearing is to be conducted by a psychiatrist other than the attending psychiatrist, and who is not currently involved in the diagnosis or treatment of the inmate.

(5) Witnesses should be called if they are reasonably available and have information relevant to the inmate's mental condition or need for psychiatric medication. Witnesses who will provide only repetitive information need not be called.

(6) A treating/evaluating psychiatrist/clinician, who has reviewed the case, must be present at the hearing and must present clinical data and background information relative to the inmate's need for psychiatric medication. Members of the treating/evaluating team may also be called as witnesses at the hearing to provide relevant information.

(7) The psychiatrist conducting the hearing must determine whether involuntary administration of psychiatric medication is necessary because, as a result of the mental illness or disorder, the inmate is dangerous to self or others, poses a serious threat of damage to property affecting the security or orderly running of the institution, or is gravely disabled (manifested by extreme deterioration in personal functioning).

(8) The psychiatrist must prepare a written report regarding the initial decision. The inmate must be promptly provided a copy of the initial decision report, and informed that he/she may appeal it to the institution's mental health division administrator. The inmate's appeal, which may be handwritten, must be submitted within 24 hours after receipt of the hearing officer's report. Upon request of the inmate, the staff representative will assist the inmate in preparing and submitting the appeal.

(9) If the inmate appeals the initial decision, psychiatric medication must not be administered before the administrator issues a decision on the appeal, unless an exception exists as

provided in paragraph (b) of this section. The inmate's appeal will ordinarily be reviewed by the administrator or his designee within 24 hours of its submission. The administrator will review the initial decision and ensure that the inmate received all necessary procedural protections, and that the justification for administering psychiatric medication is appropriate.

(10) A psychiatrist, other than the attending psychiatrist, must provide follow-up monitoring of the patient's treatment or medication at least once every 30 days after the initial decision. The follow-up must be documented in the medical record.

(11) If an inmate was afforded an administrative hearing which resulted in the involuntary administration of psychiatric medication, and the inmate subsequently consented to the administration of such medication, and then later revokes his consent, a follow-up hearing will be held before resuming the involuntary administration of psychiatric medication. All such follow-up hearings will fully comply with the procedures outlined in paragraphs (a)(1) through (10) of this section.

(b) *Exceptions.* The Bureau may involuntarily administer psychiatric medication to inmates in the following circumstances without following the procedures outlined in paragraph (a) of this section:

(1) *Psychiatric emergencies.* (i) During a psychiatric emergency, psychiatric medication may be administered only when the medication constitutes an appropriate treatment for the mental illness or disorder and its symptoms, and alternatives (e.g., seclusion or physical restraint) are not available or indicated, or would not be effective. If psychiatric medication is still recommended after the psychiatric emergency, and the emergency criteria no longer exist, it may only be administered after following the procedures in §§ 549.44 or 549.46 of this subpart.

(ii) For purposes of this subpart, a psychiatric emergency exists when a person suffering from a mental illness or disorder creates an immediate threat of:

- (A) Bodily harm to self or others;
- (B) Serious destruction of property affecting the security or orderly running of the institution; or
- (C) Extreme deterioration in personal functioning secondary to the mental illness or disorder.

(2) *Court orders for the purpose of restoring competency to stand trial.* Absent a psychiatric emergency as defined above, § 549.46(a) of this subpart does not apply to the

involuntary administration of psychiatric medication for the sole purpose of restoring a person's competency to stand trial. Only a federal court of competent jurisdiction may order the involuntary administration of psychiatric medication for the sole purpose of restoring a person's competency to stand trial.

[FR Doc. E8-13261 Filed 6-13-08; 8:45 am]  
BILLING CODE 4410-05-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2008-0386]

RIN 1625-AA08

#### Marine Events Regattas; Annual Marine Events in the Eighth Coast Guard District

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to update the list of marine events and regattas that take place in the Eighth Coast Guard District and to change patrol requirements for these events. This update is needed to provide effective control over regattas and marine events to insure safety of life in each regatta or marine event area.

**DATES:** Comments and related material must reach the Coast Guard on or before August 15, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG-2008-0386 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online:* <http://www.regulations.gov>.

(2) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(3) *Hand delivery:* Room W12-140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(4) *Fax:* 202-493-2251.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed

rule call CDR John Arenstam, Eighth Coast Guard District Prevention Division, (504) 671-2109 or e-mail, [John.J.Arenstam@uscg.mil](mailto:John.J.Arenstam@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

#### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking USCG-2008-0386, indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, 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.

#### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> at any time. Enter the docket number for this rulemaking (USCG-2008-0386) in the Search box, and click "Go >." You may also visit either the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday,

except Federal holidays; or the Eighth Coast Guard District (dpw), Hale Boggs Federal Building, 500 Poydras Street, Room 1230, New Orleans, LA 70130, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

#### Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

#### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility 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

33 CFR part 100 provides regulations to provide effective control over regattas and marine parades conducted on U.S. navigable waters to insure safety of life in the regattas or marine parade area. Section 100.801 regulates events that take place in the Eighth Coast Guard District. This section needs to be updated because the Coast Guard has reorganized Coast Guard Group Offices and Marine Safety Offices into Coast Guard Sector Commands and the events listed in Table 1 of § 100.801 need to be revised to reflect current events.

The Coast Guard also proposes to modify Coast Guard patrol requirements for Eighth Coast Guard regattas and marine parades. Section 100.801(a) requires the Coast Guard to patrol marine events in the Eighth Coast Guard District. The Coast Guard feels that not all events require Coast Guard patrols and therefore proposes to leave this at the discretion of the local Coast Guard Captain of the Port.

#### Discussion of Proposed Rule

This proposed rule would update § 100.801 Table 1 and list regattas and marine parades in the Eighth Coast Guard District by Coast Guard Sector Commands vice Coast Guard Groups Offices. It would also change § 100.801(a) to allow the local Coast Guard Captain of the Port to establish Coast Guard patrol requirements.