significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 24, 2004.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 04–5498 Filed 3–10–04; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD09–03–233]

RIN 1625–AA08 [Previously AA00]

Special Local Regulations; Head of the Cuyahoga Regatta, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On July 16, 2003, the Coast Guard published a notice of proposed rulemaking (NPRM) requesting comments on the proposed safety zone for the annual Head of the Cuyahoga Rowing Regatta in Cleveland, Ohio. The Coast Guard received four letters with several substantive comments. Based upon the comments, a new final rule is being proposed under 33 CFR part 100, in lieu of a safety zone under part 165.

DATES: Comments and related material must reach the Coast Guard on or before April 26, 2004.

ADDRESSES: You may mail comments and related material to Coast Guard Marine Safety Office Cleveland (CGD09–03–233), 1055 East Ninth Street, Cleveland, Ohio, 44114. Marine Safety Office Cleveland 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 available for inspection or copying at Coast Guard MSO Cleveland between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Allen Turner, U.S. Coast Guard Marine Safety Office Cleveland, at (216) 937–0128.

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 (CGD09–03–233), 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 include 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 plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard MSO Cleveland 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

On July 16, 2003, the Coast Guard published an NPRM in the **Federal Register** proposing a safety zone for the annual Head of the Cuyahoga Rowing Regatta event (68 FR 41982). The proposed safety zone was introduced to control vessel traffic within the immediate location of the regatta to ensure the safety of life and property on the navigable waters of the United States during the event. The Coast Guard received four comments in response to the July 16, 2003 NPRM.

The first comment addressed the appropriate use of a safety zone for this event. The proposed safety zone restricted commercial vessel traffic on the Cuyahoga River during the event, with the exception of a two-hour window to allow for commercial transits. We agree that the use of a safety zone to restrict vessel traffic in the vicinity of a regatta is not the most appropriate type of waterway regulation for this event. Therefore, the safety zone will not be implemented. Alternatively, a proposal to manage vessel traffic using special local regulations under 33 CFR part 100 is presented below.

The second comment addressed the two-hour window intended to facilitate commercial vessel traffic during the event. Commercial entities have determined that the two-hour window was insufficient for safe passage. We concur with this statement, and the two-hour window will be withdrawn. The event will now run continuous from 8 a.m. until 3 p.m. The Coast Guard will provide sufficient notice to the public so commercial entities will have ample opportunity to schedule around the event.

The third comment addressed the necessity of a Final Rule for this event, stating that a recurring temporary final rule would be advantageous to all parties involved because it would allow for comments each year. We disagree. There is no need to initiate a separate rulemaking process every time for this annual event. Since 1996, this event has

been held annually and is expected to continue into the foreseeable future. The event sponsors will still be required to submit a marine event permit and the dates will be published annually. However, since the event is not temporary in nature, a permanent rule should be established. Furthermore, the final rule can be cancelled if there are any significant changes.

The fourth comment stated that commercial vessel restrictions on the river during the event were necessary to ensure the safety of participants. We agree that vessel traffic on the Cuyahoga River must be managed to ensure safety of life and property on the navigable waters of the United States during this event. Using special local regulations under 33 CFR part 100 allows the Coast Guard to manage vessel traffic during the event and ensure safety of competitors, shells, and course markings from recreational and commercial vessels.

Discussion of Proposed Rule

This proposed rule would establish special local regulations for an annual event on the third Saturday of September from 8 a.m. until 3 p.m. We intend to maintain positive control over all vessel movement in the vicinity of the event, and therefore all vessels are required to obtain permission from the Coast Guard Patrol Commander prior to transiting the area.

Regulatory Evaluation

This proposed rule 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. The Office of Management and Budget has not reviewed this rule 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 10(e) of the regulatory policies and procedures of DHS is unnecessary.

The Coast Guard will publish full and adequate notice of the dates of the regatta, together with full and complete information of the special local regulations to ensure commercial entities have ample time to schedule around the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant 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 commercial vessels intending to transit a portion of the regulated area.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed special local regulations are only in effect for a few hours on the day of the event and the Coast Guard will provide full and adequate notice of the dates of the regatta, together with full and complete information of the special local regulations to ensure commercial entities have ample time to schedule around the event. Recreational vessels can safely pass through the regulated area under sponsor or Coast Guard escort.

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

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 rule so that they can better evaluate its effects and participate in the rulemaking process. 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 Marine Safety Office Cleveland (*see* **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

We have analyzed this proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

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 would not result in such 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

The Coast Guard has 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 does not concern an environmental risk to health or risk to safety that may 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.

Energy Effects

The Coast Guard has 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 have considered the environmental impact of this proposed rule under Commandant Instruction M16475.1C, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of categorical exclusion under Section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded under Figure 2–1, paragraph 35(h) of the Instruction, from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying 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—REGATTAS AND MARINE PARADES

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

Authority: 33 U.S.C. 1233; and Department of Homeland Security Delegation No. 0170.1.

2. Add § 100.903 to read as follows:

§ 100.903 Head of the Cuyahoga Regatta, Cleveland, OH.

(a) Regulated Area. All portions of the Cuyahoga River between a line drawn perpendicular to each riverbank at 41°29′19″ N, 81°40′50″ W (Marathon Bend), to a line drawn perpendicular to each riverbank at 41°29′56″ N, 81°42′27″ W (confluence with the Old River). These coordinates are based upon North American Datum (NAD 1983).

(b) Enforcement Period. This section will be enforced annually on the third Saturday of September from 8 a.m. until 3 p.m. The Coast Guard will publish the dates annually.

(c) Special Local Regulations. All vessels are prohibited from transiting the area without permission from Coast Guard Patrol Commander via VHF/FM Radio, Channel 16, to transit the area.

Dated: February 23, 2004.

Lorne W. Thomas,

Commander, U.S. Coast Guard, Captain of the Port Cleveland.

[FR Doc. 04–5466 Filed 3–10–04; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2001–6A]

Compulsory License for Making and Distributing Phonorecords, Including Digital Phonorecord Deliveries

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is proposing to amend its regulations governing the content and service of certain notices on the copyright owner of a musical work. The notice is served or filed by a person who intends to use a musical work to make and distribute phonorecords, including by means of digital phonorecord deliveries, under a compulsory license.

DATES: Comments should be received no later than April 12, 2004.

ADDRESSES: An original and ten copies of any comment shall be sent to the Copyright Office. If comments are mailed, the address is: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024–0400. If comments are hand delivered by a commercial, non-government courier or messenger, comments must be delivered to: The Congressional Courier Acceptance Site, located at Second and D Streets, NE., between 8:30 a.m. and 4 p.m., and addressed to ''Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room LM–401, First and Independence Avenue, SE., Washington, DC 20559–6000.'' If comments are hand delivered by a private party, they must be addressed to: ''Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room LM–401, First and Independence Avenue, SE., Washington, DC 20559–6000,'' and delivered to the Public Information Office, James Madison Memorial Building, Room 401, First and Independence Avenue, SE., Washington, DC between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024–0977. Telephone: (202) 707–8380; Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

I. Background

Section 115 of the Copyright Act, 17 U.S.C., provides that ''[w]hen phonorecords of a nondramatic musical work have been distributed to the public in the United States under the authority of the copyright owner, any other person * * * may, by complying with the provisions of this section, obtain a compulsory license to make and distribute phonorecords of the work.'' 17 U.S.C. 115(a)(1). The compulsory license set forth in section 115 permits the use of a nondramatic musical work without the consent of the copyright owner if certain conditions are met and royalties are paid.

One such condition precedent set forth in the law requires any person using the section 115 license to provide notice to the copyright owner of a musical work ''before or within thirty days after making, and before distributing any phonorecords' of his or her intent to use the copyright owner's work under the statutory license. 17 U.S.C. 115(b). Pursuant to this section, the Register of Copyrights issued regulations prescribing the form, content, and manner of service of the Notice of Intention (''Notice'') to obtain the license. Final regulations governing the content and service of the Notice were adopted on November 28, 1980. 45 FR 79038 (November 28, 1980). These rules served the traditional needs of the statutory licensee who wished to use a copyrighted musical work to make their own sound recording under the traditional section 115 mechanical license.

Section 115 was subsequently amended on November 1, 1995, with the enactment of the Digital Performance Right in Sound Recordings Act of 1995 (''DPRA''), Public Law 104–39 (1995). Among other things, this law expanded the section 115 compulsory license for making and distributing phonorecords to include not only the traditional use of the musical work to make an original sound recording, but also the distribution of a phonorecord of a nondramatic musical work by means of a digital phonorecord delivery (''DPD''). *See* 17 U.S.C. 115(c)(3)(A). As defined