

heat exchanger was not recognized as a key indicator of a substantial leak in the primary reactor system. Because this plant's operation remained within the technical specifications, there was no basis for plant operators to perform investigations. The petitioner believes this instance calls for the regulations to address the need for investigating the grossly off-normal performance of this heat exchange equipment. The petitioner states that in several instances, the fouling of steam generator tubes has reduced heat transfer effectiveness enough to force operation at reduced secondary side pressures in order to maintain heat transfer rates. The petitioner believes that this fouling is not only an operating annoyance, but will likely impact safety issues.

The petitioner has concluded that fouling of main condenser heat transfer surfaces has led to degradation of heat transfer effectiveness and that these fouling deposits have occasionally been released into the coolant stream, contributing to the fouling of fuel elements.

The petitioner also has concerns with test programs and states that during the past several decades, the NRC has funded over one billion dollars of heat transfer test programs that have not included any allowance for the fouling of heat transfer surfaces that occurs during operation of nuclear power plants. The petitioner states that these test programs must be thoroughly studied and that allowances must be made for a range of fouling of the heat transfer surfaces. The petitioner believes it is very likely that it will not be possible to produce reliable allowances for a range of degrees of fouling and states that the results of the prior test programs such as FLECHT, LOFT, Semiscale, and others must not be applied to the production of computer codes for reactor heat transfer analyses.

The petitioner also notes that the NRC is currently spending millions of dollars on heat transfer testing at facilities such as the RHBT at Penn State University and believes that "these programs must be realigned to cover the cases of several degrees of fouling."

The petitioner notes that the NRC has also funded several hundred million dollars of computer codes related to heat transfer processes in nuclear power reactors. The petitioner states that these codes (TRAC, RELAP, and others) have not considered the effects of fouling on heat transfer surfaces at nuclear power facilities and must not be applied to the licensing of nuclear power plants until "reliable allowances for a range of degrees of fouling are incorporated in the codes."

The petitioner states that amended regulations will illustrate if conditions similar to those already reported in certain Licensee Event Reports (LERs) will constitute license violations and cites LER 50-458/99-016-00 as a possible example.

The Petitioner's Suggested Codified Text

The petitioner did not provide proposed changes to codified text in presenting issues in the petition that address the impact of fouling on the performance of heat transfer surfaces throughout licensed nuclear power plants.

The Petitioner's Conclusions

The petitioner has concluded that the increased attention to detail in plant design, analysis, and operations that will be effected by the amended regulations will enhance operating effectiveness and safety, discourage incomplete and misleading reporting to regulatory authorities, and reduce opportunities for sabotage by insiders. The petitioner has also concluded that the increased reporting requirements with respect to fouling of heat transfer surfaces at nuclear power facilities will provide improved information to professional risk analysts who advise financial management organizations, to individual investors, and to State agencies that oversee the sale and acquisition of nuclear power plants by utility holding companies that operate within their jurisdiction.

Dated at Rockville, Maryland, this 24th day of October, 2002.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

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DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 296-2002]

Privacy Act of 1974; Implementation

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice, Office of the Pardon Attorney (OPA), proposes to exempt the Executive Clemency Case Files/Executive Clemency Tracking System (JUSTICE/OPA-001) system of records from subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), and (e)(5) of the Privacy Act, 5 U.S.C. 552a. Information in this

system relates to the investigation and evaluation of applicants for executive clemency and case-related correspondence regarding such applicants and the clemency process. The exemptions are necessary to avoid interference with clemency investigations and decision-making, when such interference could impair the Department of Justice's ability to provide candid recommendations to the President for his ultimate decisions on clemency matters, and to prevent unwarranted invasions of the personal privacy of third parties.

DATES: Submit any comments by December 2, 2002.

ADDRESSES: Address all comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 1400, National Place Building).

FOR FURTHER INFORMATION CONTACT:

Mary Cahill, (202) 307-1823.

SUPPLEMENTARY INFORMATION: In the notice section of today's **Federal Register**, the Department of Justice provides a description of the Executive Clemency Case Files/Executive Clemency Tracking System (JUSTICE/OPA-001).

This Order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, it is hereby stated that the order will not have "a significant impact on a substantial number of small entities."

List of Subjects in Part 16

Administrative practices and procedures, Courts, Freedom of Information, Sunshine Act, and Privacy.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a, and delegated to me by Attorney General Order No. 793-78, it is proposed to delete the current language of 28 CFR 16.79 and substitute the following:

1. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

2. Section 16.79 is revised to read as follows:

§ 16.79 Exemption of Pardon Attorney Systems.

(a) The following system of records is exempt from 5 U.S.C. 552a, subsections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), and (e)(5): Executive Clemency Case Files/Executive Clemency Tracking System (JUSTICE/OPA-001). These exemptions apply only to the extent that

information in this system of records is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(b) Exemption from the particular subsections is justified for the following reasons:

(1) From subsection (c)(3) because:

(i) The purpose of the creation and maintenance of the Executive Clemency Case Files/Executive Clemency Tracking System (JUSTICE/OPA-001) is to enable the Justice Department to prepare reports and recommendations to the President for his ultimate decisions on clemency matters, which are committed to exclusive discretion of the President pursuant to Article II, Section 2, Clause 1 of the Constitution.

(ii) Release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the requester to obtain valuable information concerning the nature and scope of a clemency investigation, invade the right of candid and confidential communications among officials concerned with making recommendations to the President in clemency matters, and disclose the identity of persons who furnished information to the Government under an express or implied promise that their identities would be held in confidence.

(2) From subsection (c)(4) because the exemption from subsections (d)(1), (d)(2), (d)(3), and (d)(4) will make notification of disputes inapplicable.

(3) From subsections (d)(1), (d)(2), (d)(3), and (d)(4) is justified for the reasons stated in paragraph (1) above.

(4) From subsection (e)(5) is justified for the reasons stated in paragraph (1) above.

Dated: October 22, 2002.

Robert F. Diegelman,

Acting Assistant Attorney General for Administration.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07-02-122]

RIN 2115-AE46

Special Local Regulations; Winterfest Boat Parade, Broward County, Fort Lauderdale, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish permanent special local

regulations for the annual Winterfest Boat Parade held on the first Saturday falling between December 13 and 19, inclusive, each year in Fort Lauderdale, Florida. This proposed rule would create four separate regulated areas and would restrict operations of non-participant vessels in the regulated areas. These regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: Comments and related material must reach the Coast Guard on or before December 2, 2002.

ADDRESSES: You may mail comments and related material to Coast Guard Group Miami, 100 MacArthur Causeway, Miami Beach, Florida, 33139. Coast Guard Group Miami 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 Coast Guard Group Miami, 100 MacArthur Causeway, Miami Beach, Florida 33139 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BMC Victor Sorensen or BM1 Daniel Vaughn at (305) 535-4317.

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 [CGD07-02-122], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Coast Guard at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or hand 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 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. We anticipate making this rule effective less than 30 days after the final rule is published in the **Federal Register** due to the event date in mid-

December and to allow the public to comment on this proposed rule.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Coast Guard 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

The Winterfest Boat Parade is a nighttime parade of approximately 110 pleasure boats ranging in length from 20 feet to 200 feet decorated with holiday lights. Approximately 1500 spectator craft typically view the parade. The parade would form in the staging area at the Port Everglades turning basin and on a portion of the ICW south of the turning basin and would proceed north on the ICW to Lake Santa Barbara where the parade would disband.

These regulations would create regulated areas for the staging area, judging area, viewing area, and parade route. Non-participant vessels would be prohibited from entering or anchoring in the staging area. Further, no vessel would be allowed to enter or anchor in the viewing and judging areas. During the parade transit, these regulations would prohibit non-participant vessels from approaching within 175 yards ahead of the lead vessel and 175 yards astern of the last participant vessel in the parade, and within 15 yards on either side of the outboard parade vessels, unless authorized by the Coast Guard Patrol Commander. The event sponsor would have watercraft in the area to guide mariners around the regulated areas.

The staging area of this regulation overlaps with existing security zones established by the Coast Guard Captain of the Port of Miami under 33 CFR 165.T07-054 (67 FR 46389, July 15, 2002). These security zones are activated when passenger vessels, vessels carrying cargoes of particular hazard, or vessels carrying liquified hazardous gas as defined in 33 CFR parts 120, 126, and 127 respectively, enter or moor in Port Everglades. These security zones remain in effect during this event and no person or vessel may enter the security zones without the permission of the Coast Guard Patrol Commander.

Discussion of Rule

The Coast Guard proposes to establish four regulated areas for this event: a staging area, a judging area, a viewing