

the time of customer confirmation of service. I continue to adhere to my rationale for dissenting as articulated in the June 18, 1998 order in this proceeding. See *Open Access Same-Time Information System and Standards of Conduct*, 83 FERC ¶ 61,360 at 62,467-69 (1998) (Bailey, Comm'n'r, dissenting in part). I continue to believe that the public's and the Commission's need for source and sink information, at the time of customer confirmation, for the purpose of detecting possible undue discrimination or preference in the provision of transmission service does not outweigh the Commission's interest in promoting competitive markets by protecting against the disclosure of commercially sensitive information.

I add only two points to my earlier dissent on the subject. First, I fail to see any reason why another balance cannot be struck that provides information necessary for market monitoring and enforcement while maintaining respect for (what we are informed is) commercially sensitive information. Specifically, I do not understand how the Commission's very legitimate interest in monitoring markets and protecting against the abuse of monopoly power by transmission providers would be jeopardized by further delaying the public disclosure of source and sink information for 30 additional days after finalization of the transaction and the transmission provider's update of its transmission reservation posting. (I agree with the majority that EPSA's request to delay disclosure until after completion of the power sale and accompanying transmission service might not allow for timely disclosure of information concerning longer-term transactions; I would shorten the requested delay to 30 days to avoid this problem.) Nor do I understand why the Commission should not require transmission providers uniformly to provide source and sink information on a control area basis, as requested on rehearing by EPSA. Such a requirement would have the dual benefit of better protecting commercially sensitive information while promoting uniformity among OASIS sites, to the benefit of all transmission customers.

Second, I view the majority's disposition as overly dismissive of the role of power marketers and intermediaries in competitive markets. I am not prepared to decide, as does the majority (slip op. at 3-5), that the competitive interest of marketers is or may be inconsistent with the competitive interest of the power market as a whole. I am not willing to dismiss cavalierly the objections of Enron and EPSA that marketers may be driven out of short-term markets if forced to disclose immediately the details of the transactions they arrange. Neither I nor any of my colleagues can be entirely sure whether immediate disclosure of this type of sensitive information will drive market participants out of certain markets, or whether the "overall market" is improved or degraded with the combination of more market information and fewer market participants.

In these circumstances, I would strike another balance between information disclosure and concern for the commercial sensitivity that is more respectful of the important arguments presented on rehearing.

As I recently explained in a slightly different context:

The Commission must have considerable information from the companies it regulates to continue to ensure that they operate in a manner consistent with their statutory responsibilities; however, it remains crucial for the Commission to consider at what point the usefulness of information becomes outweighed by the competitive implications of disclosure.

*American Electric Power Company and Central and South West Corporation*, Docket Nos. EC98-40-000, *et al.*, slip op. at 3-4 (Bailey, Comm'n'r, dissenting in part). I believe that point has been crossed in the present circumstances.

Vicky A. Bailey,

Commissioner.

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## DEPARTMENT OF STATE

### 22 CFR Part 41

[Public Notice 2926]

#### Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended—Waiver by Secretary of State and Attorney General of Passport and/or Visa Requirements for Certain Categories of Nonimmigrants

AGENCY: Department of State.

ACTION: Interim rule.

**SUMMARY:** Current regulations contain a joint Secretary of State/Attorney General (Secretary/AG) list of waivers of visas and/or passports for certain nonimmigrants including a provision for nationals of the British Virgin Islands (BVI) entering the United States (U.S.) Virgin Islands. This rule extends that provision to include nationals of the BVI who seek to enter the U.S. mainland temporarily for business or pleasure through the port-of-entry at St. Thomas, U.S. Virgin Islands.

**DATES:** This rule is effective February 18, 1999.

**FOR FURTHER INFORMATION CONTACT:** H. Edward Odom, Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, D.C. 20520-0106, (202) 663-1204.

#### SUPPLEMENTARY INFORMATION:

##### Why Is This Being Done?

The U.S. consulate at St. Johns, Antigua, is one of a number of small posts the State Department has closed in recent years for budgetary reasons. This has created a serious inconvenience for nationals of the BVI who, if they wished to visit the United States, have had to apply for a nonimmigrant visa by either

going to Barbados, the nearest consular office, or applying by mail which is time-consuming. The BVI government asked that some ameliorating action be taken if possible. The Department and the Immigration and Naturalization Service (INS), after a joint study, decided that waiving the nonimmigrant visa for visitors for business and pleasure was the most appropriate way to ease the situation and still maintain the safeguards of the Immigration and Nationality Act (INA).

#### What Is the Legal Basis for This Action?

Section 212(d)(4) of the INA provides that the Secretary and AG may jointly waive visa and/or passport requirements on the basis of reciprocity for nationals of foreign contiguous territories or adjacent islands and residents thereof who have a common nationality with such nationals. That is the basis for the current regulations at 22 CFR 41.2 and for their expansion with this rule.

#### What Is the Difference Between This and What Is Now in the Regulations?

The current regulation only permits the entry of BVI nationals not in possession of a valid visitor's visa into the U.S. Virgin Islands. If they wish to enter any other part of the United States, they must not only have a passport, but also a visa. This amendment will permit visitors for business or pleasure, that is, persons described in INA 101(a)(15)(B), to enter without a visa if they meet certain other requirements. They must have a Certificate of Good Character issued by the Royal Virgin Islands Police Department, must leave through the port of St. Thomas by air directly for the United States, and must satisfy the immigration officer at that pre-inspection station that they are admissible in all respects. A BVI national wishing to enter the United States for any other purpose as a nonimmigrant must have a nonimmigrant visa. See the Immigration and Naturalization Service rule published elsewhere in this issue of the **Federal Register**.

#### Regulatory Analysis and Notices

##### Interim Rule

The implementation of this rule as an interim rule, with a 60-day provision for post-promulgation public comments, is based on the "good cause" exceptions set forth at 5. U.S.C. 553(b)(3)(B) and 553(d)(3). It provides a benefit to the persons affected and thus to U.S. businesses patronized by them. It also provides a significant workload reduction for the Department. Delay of

the benefit for public notice and comment is unnecessary.

#### *The Regulatory Flexibility Act*

Pursuant to § 605 of the Regulatory Flexibility Act, the Department has assessed the potential impact of this rule, and the Assistant Secretary for Consular Affairs hereby certifies that it is not expected to have a significant economic impact on a substantial number of small entities.

#### *E.O. 12988 and E.O. 12866*

This rule has been reviewed as required under E.O. 12998 and determined to be in compliance therewith. This rule is exempt from review under E.O. 12866, but has been reviewed internally by the Department to ensure consistency therewith. The rule does not directly affect states or local governments or Federal relationships and does not create unfunded mandates.

#### *5 U.S.C. Chapter 8*

As required by 5 U.S.C., chapter 8, the Department has screened this rule and determined that it is not a major rule, as defined in 5 U.S.C. 80412.

#### *Paperwork Reduction Act*

This rule will eliminate certain paperwork requirements, rather than adding to them.

#### **List of Subjects in 22 CFR Part 41**

Aliens, Nonimmigrants, Passports and visas.

In view of the foregoing, 22 CFR part 41 is amended as follows:

#### **PART 41—[AMENDED]**

1. The authority citation for part 41 continues to read:

**Authority:** 8 U.S.C. 1104.

2. Section 41.2(f) is revised to read as follows:

\* \* \* \* \*

#### **§ 41.2 Waiver by Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.**

(f) Nationals and residents of the British Virgin Islands.

(1) A national of the British Virgin Islands and resident therein requires a passport but not a visa if proceeding to the United States Virgin Islands.

(2) A national of the British Virgin Islands and resident therein requires a passport but does not require a visa to apply for entry into the United States if such applicant:

(i) Is proceeding by aircraft directly from St. Thomas, U.S. Virgin Islands;

(ii) Is traveling to some other part of the United States solely for the purpose of business or pleasure as described in INA 101(a)(15)(B);

(iii) Satisfies the examining U.S. Immigration officer at that port of entry that he or she is admissible in all respects other than the absence of a visa; and

(iv) Presents a current Certificate of Good Conduct issued by the Royal Virgin Islands Police Department indicating that he or she has no criminal record.

\* \* \* \* \*

Dated: November 2, 1998.

**Mary A. Ryan,**

*Assistant Secretary for Consular Affairs.*

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## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

#### **33 CFR Part 100**

[CGD01-98-125]

RIN 2115-AE46

#### **Special Local Regulations: Greenwood Lake Powerboat Classic, Greenwood Lake, NJ**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent special local regulations that will be enacted annually for the annual Greenwood Lake Powerboat Classic. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the southern end of Greenwood Lake, New Jersey.

**DATES:** This final rule is effective March 22, 1999.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, or deliver them to room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (718) 354-4193.

#### **FOR FURTHER INFORMATION CONTACT:**

Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

#### **SUPPLEMENTARY INFORMATION:**

#### **Regulatory History**

On November 13, 1998, the Coast Guard published a notice of proposed

rulemaking entitled Special Local Regulations: Greenwood Lake Powerboat Classic, Greenwood Lake, New Jersey in the **Federal Register** (63 FR 63426). The Coast Guard did not receive any letters commenting on the proposed rulemaking. No public hearing was requested, and none was held.

#### **Background and Purpose**

The Greenwood Lake Powerboat Association and the West Milford, New Jersey Chamber of Commerce sponsor this annual high-speed powerboat race with approximately 60 race boats, up to 20 feet in length, participating in the event. An average of 125 spectator craft view this event each year. The race will take place on the southern end of Greenwood Lake, New Jersey. The regulated area encompasses all waters of Greenwood Lake north of 41°08'N and south 41°09'N (NAD 1983). The shoreline comprises the eastern and western boundaries. The northern boundary will be marked by 6 temporary buoys. The more narrow southern boundary will be marked by 4 temporary buoys. This regulation is effective annually from 10 a.m. until 7 p.m. on Saturday and Sunday, the first weekend before Memorial Day weekend. The race boats will be competing at high speeds with numerous spectator craft in the area, creating an extra or unusual hazard in the navigable waterway. This regulation prohibits all vessels not participating in the event, swimmers, and personal watercraft from transiting this portion of Greenwood Lake during the races. It is needed to protect the waterway users from the hazards associated with high-speed powerboats racing in confined waters. Marine traffic will be able to transit through the area at various times between races at the direction of the Coast Guard Patrol Commander.

#### **Regulatory Evaluation**

This final 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. It has not been reviewed by the Office of Management and Budget 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).

The Coast Guard expects the economic impact of this final 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 regulation prevents traffic from transiting a portion of the southern end