

provider, including, but not limited to, finding any of the following:

(1) If any entity has suspended or revoked the provider's license to do business in any jurisdiction; or

(2) Any United States district court has removed the provider under 11 U.S.C. 111(e).

(d) The United States Trustee shall provide to the provider in writing a notice of any decision either to:

(1) Deny the provider's application; or

(2) Remove the provider from the approved list.

(e) The notice shall state the reason(s) for the decision and shall reference any documents or communications relied upon in reaching the denial or removal decision. To the extent authorized by law, the United States Trustee shall provide to the provider copies of any such documents that were not supplied to the United States Trustee by the provider. The notice shall be sent to the provider by overnight courier, for delivery the next business day.

(f) Except as provided in paragraph (h) of this section, the notice shall advise the provider that the denial or removal decision shall become final agency action, and unreviewable, unless the provider submits in writing a request for review by the Director no later than 20 calendar days from the date of the notice to the provider.

(g) Except as provided in paragraph (h) of this section, the decision to deny a provider's application or to remove a provider from the approved list shall take effect upon:

(1) The expiration of the provider's time to seek review from the Director, if the provider fails to timely seek review of a denial or removal decision; or

(2) The issuance by the Director of a final written decision, if the provider timely seeks such review.

(h) The United States Trustee may provide that a decision to remove a provider from the approved list is effective immediately and deny the provider the right to provide an instructional course whenever the United States Trustee finds any of the factors set forth in paragraphs (c)(1) or (2) of this section.

(i) A provider's request for review shall be in writing and shall fully describe why the provider disagrees with the denial or removal decision, and shall be accompanied by all documents and materials the provider wants the Director to consider in reviewing the denial or removal decision. The provider shall send the original and one copy of the request for review, including all accompanying documents and materials, to the Office of the Director by overnight courier, for delivery the

next business day. In order to be timely, a request for review shall be received at the Office of the Director no later than 20 calendar days from the date of the notice to the provider.

(j) The United States Trustee shall have 30 calendar days from the date of the provider's request for review to submit to the Director a written response regarding the matters raised in the provider's request for review. The United States Trustee shall provide a copy of this response to the provider by overnight courier, for delivery the next business day.

(k) The Director may seek additional information from any party in the manner and to the extent the Director deems appropriate.

(l) In reviewing the decision to deny a provider's application or to remove a provider from the approved list, the Director shall determine:

(1) Whether the denial or removal decision is supported by the record; and

(2) Whether the denial or removal decision constitutes an appropriate exercise of discretion.

(m) Except as provided in paragraph (n) of this section, the Director shall issue a written final decision no later than 60 calendar days from the receipt of the provider's request for review, unless the provider agrees to a longer period of time or the Director extends the deadline. The Director's final decision on the provider's request for review shall constitute final agency action.

(n) Whenever the United States Trustee provides under paragraph (h) of this section that a decision to remove a provider from the approved list is effective immediately, the Director shall issue a written decision no later than 15 calendar days from the receipt of the provider's request for review, unless the provider agrees to a longer period of time, which decision shall:

(1) Be limited to deciding whether the determination that the removal decision should take effect immediately was supported by the record and an appropriate exercise of discretion;

(2) Constitute final agency action only on the issue of whether the removal decision should take effect immediately; and

(3) Not constitute final agency action on the ultimate issue of whether the provider should be removed from the approved list; after issuing the decision, the Director shall issue a written final decision in accordance with the requirements of paragraph (m) of this section.

(o) In reaching a decision under paragraphs (m) or (n) of this section, the Director may specify a person to act as

a reviewing official. The reviewing official's duties shall be specified by the Director on a case-by-case basis, and may include reviewing the record, obtaining additional information from the participants, providing the Director with written recommendations, and such other duties as the Director shall prescribe in a particular case.

(p) A provider that files a request for review shall bear its own costs and expenses, including counsel fees.

(q) When a decision to remove a provider from the approved list takes effect, the provider shall:

(1) Immediately cease providing an instructional course to debtors and shall not agree to provide an instructional course to debtors;

(2) No later than 3 business days after the date of removal, issue all certificates to all debtors who completed an instructional course prior to the provider's removal from the approved list; and

(3) No later than 3 business days after the date of removal, return all fees to debtors who had paid for an instructional course, but had not completely received them.

(r) A provider must exhaust all administrative remedies before seeking redress in any court of competent jurisdiction.

Dated: October 30, 2008.

**Clifford J. White, III,**

*Director, Executive Office for United States Trustees.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0189]

RIN 1625-AA00

#### Safety Zones; Fireworks Displays Within the Fifth Coast Guard District

**AGENCY:** Coast Guard, DHS.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** This action is a supplemental notice of proposed rulemaking (SNPRM) to Coast Guard's April 15, 2008, notice of proposed rulemaking (NPRM) which proposed the revision of the list of permanent safety zones established for fireworks displays at various locations within the geographic boundary of the Fifth Coast Guard District (73 FR 20223). In the April 2008 NPRM, the

Coast Guard proposed the addition of 22 new safety zones, and the modification 4 existing zones for fireworks display launch platforms and fallout areas. This supplemental proposal includes three additional safety zones and removes one previously proposed zone for a total of 24 new safety zones for fireworks displays. This action also proposes modification to one existing safety zone for a total of five modifications to preexisting zones established for fireworks displays. This action is necessary to protect the life and property of the maritime public from the hazards posed by fireworks displays. Entry into or movement within these proposed zones during the enforcement periods will be prohibited without approval of the appropriate Captain of the Port.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before December 15, 2008 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG–2008–0189 using any one of the following methods:

(1) Federal eRulemaking Portal:  
<http://www.regulations.gov>.

(2) Fax: 202–493–2251.

(3) 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.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Dennis Sens, Project Manager, Fifth Coast Guard District, Prevention Division, Inspections and Investigations Branch, at (757) 398–6204. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**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.

**Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0189), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. 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.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert “USCG–2008–0189” in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments 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 the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

**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>, select the Advanced Docket Search option on the right side of the screen, insert USCG–2008–0189 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation 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 Commander (dpi), 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

**Privacy Act**

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

**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**

In this supplemental proposal, the Coast Guard proposes to revise the list of permanent safety zones at 33 CFR 165.506, established for fireworks displays at various locations within the geographic boundary of the Fifth Coast Guard District. For a description of the geographical area of the Fifth District and subordinate Coast Guard Sectors—Captain of the Port Zones, please see 33 CFR 3.25. Currently there are 49 permanent safety zones established that are enforced for fireworks displays occurring throughout the year that are held on an annual basis and normally in one of these 49 locations.

The Coast Guard proposes to revise the list of permanent safety zones at 33 CFR 165.506, established for fireworks displays, by adding 24 new locations and modifying 5 previously established locations within the geographic boundary of the Fifth Coast Guard District. This rule will increase the total number of permanent safety zones to 73 locations for fireworks displays within the boundary of the Fifth Coast Guard District.

The 24 newly proposed permanent safety zones are as follows:

**TABLE OF PROPOSED FIREWORKS SAFETY ZONES**

1 .....	Delaware River, Chester, PA.
2 .....	North Atlantic Ocean Avalon, NJ.
3 .....	Barneget Bay, Barneget Township, NJ.
4 .....	North Atlantic Ocean, Cape May, NJ.
5 .....	Great Egg Harbor Inlet, Margate City, NJ.
6 .....	Metedeconk River, Brick Township, NJ.
7 .....	North Atlantic Ocean, Ocean City, NJ.

TABLE OF PROPOSED FIREWORKS  
SAFETY ZONES—Continued

8	.....	North Atlantic Ocean, Bethany Beach, DE.
9	.....	Baltimore Inner Harbor, Patapsco River, MD.
10	.....	Anacostia River, Washington, DC.
11	.....	Potomac River, Charles County, MD.
12	.....	Potomac River, National Harbor, MD.
13	.....	Patuxent River, Calvert County, MD.
14	.....	Patuxent River, Solomons Island, Calvert County, MD.
15	.....	Appomattox River, Hopewell, VA.
16	.....	John H. Kerr Reservoir, Clarksville, VA.
17	.....	Chesapeake Bay, Hampton, VA.
18	.....	Atlantic Ocean, Virginia Beach, VA, Safety Zone. B.
19	.....	Atlantic Ocean, Virginia Beach, VA, Safety Zone. C.
20	.....	Nansemond River, Suffolk, VA.
21	.....	James River, Williamsburg, VA.
22	.....	Edenton Bay, Edenton, NC.
23	.....	Motts Channel, Banks Channel, Wrightsville Beach, NC.
24	.....	New River, Jacksonville, NC.

The safety zone locations previously proposed for modification by this rule are: Potomac River, Charles County, MD; Northwest Harbor (West Channel) Patapsco River, MD; Delaware River, Essington, PA; and Atlantic Ocean, Virginia Beach, VA, safety zone A. This supplemental proposal adds one additional location; Cape Fear River, Wilmington, NC.

The Coast Guard typically receives numerous applications in these areas for fireworks displays. Previously a temporary safety zone was usually established on an emergency basis for each display. Emergency activation of safety zones limited the opportunity for public comment. Establishing permanent safety zones through notice and comment rulemaking provides the public the opportunity to comment on the zone locations, size and length of time the zones will be enforced.

Each year organizations in the Fifth Coast Guard District sponsor fireworks displays in the same general location and time period. Each event uses a barge or an on-shore site near the shoreline as the fireworks launch platform. A safety zone is used to control vessel movement within a specified distance surrounding the launch platforms to ensure the safety of persons and property. Coast Guard personnel on scene could allow persons within the safety zone if conditions permit.

The Coast Guard would publish notices in the **Federal Register** if an event sponsor reported a change to the listed event venue or date. In the case

of inclement weather the event usually will be conducted on the day following the date listed in the Table to § 165.506. Coast Guard Captains of the Port would give notice of the enforcement of each safety zone by all appropriate means to provide the widest publicity among the affected segments of the public. This would include publication in the Local Notice to Mariners and Marine Information Broadcasts. Marine information and facsimile broadcasts may also be made for these events, beginning 24 to 48 hours before the event is scheduled to begin, to notify the public. Fireworks barges or launch sites on land used in the locations stated in this rulemaking would also display a sign. The sign would be affixed to the port and starboard side of the barge or mounted on a post 3 foot above ground level when on land and in close proximity to the shoreline facing the water labeled "FIREWORKS—DANGER—STAY AWAY". This would provide on scene notice that the safety zone is or will be enforced on that day. This notice will consist of a diamond shaped sign 4 foot by 4 foot with a 3-inch orange retro-reflective border. The word "DANGER" shall be 10 inch black block letters centered on the sign with the words "FIREWORKS" and "STAY AWAY" in 6 inch black block letters placed above and below the word "DANGER" respectively on a white background. There would also be a Coast Guard patrol vessel on scene 30 minutes before the display is scheduled to start until 30 minutes after its completion to enforce the safety zone.

The enforcement period for these proposed safety zones is from 5:30 p.m. to 1 a.m. local time. However, vessels may enter, remain in, or transit through these safety zones during this timeframe if authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene, as provided for in 33 CFR 165.23.

This rule is being proposed to provide for the safety of life on navigable waters during the events and to give the marine community the opportunity to comment on the proposed zone locations, size, and length of time the zones will be active.

#### Discussion of Proposed Rule

(a) The Coast Guard proposes to revise the regulations at 33 CFR 165.506 by adding the following 24 permanent safety zone locations. All coordinates listed for the following safety zones reference Datum NAD 1983.

#### *Delaware River, Chester, PA, Safety Zone*

All waters of the Delaware River near Chester, PA just south of the Commodore Barry Bridge within a 250 yards radius of the fireworks barge located in approximate position latitude 39°49'43.2" N, longitude 075°22'42" W.

#### *North Atlantic Ocean, Avalon, NJ, Safety Zone*

The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 39°05'31" N, longitude 074°43'00" W, in the vicinity of the shoreline at Avalon, NJ.

#### *Barnegat Bay, Barnegat Township, NJ, Safety Zone*

The waters of Barnegat Bay within a 500 yard radius of the fireworks barge in approximate position latitude 39°44'50" N, longitude 074°11'21" W, approximately 500 yards north of Conklin Island, NJ.

#### *North Atlantic Ocean, Cape May, NJ, Safety Zone*

The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 38°55'36" N, longitude 074°55'26" W, immediately adjacent to the shoreline at Cape May, NJ.

#### *Great Egg Harbor Inlet, Margate City, NJ, Safety Zone*

All waters within a 500 yard radius of the fireworks barge in approximate location latitude 39°19'33" N, longitude 074°31'28" W, on the Intracoastal Waterway near Margate City, NJ.

#### *Metedeconk River, Brick Township, NJ, Safety Zone*

The waters of the Metedeconk River within a 300 yard radius of the fireworks launch platform in approximate position latitude 40°03'24" N, longitude 074°06'42" W, near the shoreline at Brick Township, NJ.

#### *North Atlantic Ocean, Ocean City, NJ, Safety Zone*

The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 39°16'22" N, longitude 074°33'54" W, in the vicinity of the shoreline at Ocean City, NJ.

#### *North Atlantic Ocean, Bethany Beach, DE, Safety Zone*

The waters of the North Atlantic Ocean within a 500 yard radius of the launch platform in approximate position latitude 38°32'08" N, longitude

075°03'15" W, adjacent to shoreline of Bethany Beach, DE.

*Baltimore Inner Harbor, Patapsco River, MD, Safety Zone*

The waters of the Patapsco River within a 100 yard radius of approximate position latitude 39°17'03" N, longitude 076°36'36" W, located in Baltimore Inner Harbor, approximately 150 yards southeast of pier 1.

*Anacostia River, Washington, DC, Safety Zone*

All waters of the Anacostia River within a 150 yard radius of the Fireworks discharge site located near the shoreline at Washington Nationals Ball Park in approximate position latitude 38°52'18" N, longitude 077°00'20" W.

*Potomac River, Charles County, MD,—Mount Vernon, Safety Zone*

All waters of the Potomac River within a 300 yard radius of the fireworks launch site near the Mount Vernon Estate, in Fairfax County, Virginia, located at latitude 38°42'24" N, longitude 077°04'56" W.

*Potomac River, National Harbor, MD, Safety Zone*

All waters of the Potomac River within an area bound by a line drawn from the following points: latitude 38°47'18" N, longitude 077°01'01" W; thence to latitude 38°47'11" N, longitude 077°01'26" W; thence to latitude 38°47'25" N, longitude 077°01'33" W; thence to latitude 38°47'32" N, longitude 077°01'08" W; thence to the point of origin, located at National Harbor, Maryland.

*Patuxent River, Calvert County, MD, Safety Zone*

All waters of the Patuxent River within a 280 yard radius of the fireworks barge in approximate position latitude 38°19'06.6" N, longitude 076°26'10.1" W, approximately 1450 yards west of Drum Point, MD.

*Patuxent River, Solomons Island, Calvert County, MD, Safety Zone*

All waters of the Patuxent River within a 400 yard radius of the fireworks barge located at latitude 38°19'03" N, longitude 076°26'07.6" W.

*Appomattox River, Hopewell, VA, Safety Zone*

All waters of the Appomattox River within a 400 yard radius of the fireworks barge in approximate position latitude 37°19'11" N, longitude 077°16'55" W.

*John H. Kerr Reservoir, Clarksville, VA, Safety Zone*

All waters of John H. Kerr Reservoir within a 400 yard radius of approximate position latitude 36°37'51" N, longitude 078°32'50" W, located near the south end of the State Route 15 Highway Bridge.

*Chesapeake Bay, Hampton, VA, Safety Zone*

All waters of the Chesapeake Bay within a 350 yard radius of approximate position latitude 37°02'23" N, longitude 076°17'22" W, located near Buckroe Beach.

*Atlantic Ocean, VA Beach, VA, Safety Zone*

All waters of the Atlantic Ocean within a 350 yard radius of approximate position latitude 36°50'35" N, longitude 075°58'09" W, located on the 14th Street Fishing Pier.

*Atlantic Ocean, VA Beach, VA, Safety Zone*

All waters of the Atlantic Ocean within a 350 yard radius of approximate position latitude 36°49'55" N, longitude 075°58'00" W, located off the beach between 2nd and 6th streets.

*Nansemond River, Suffolk, VA, Safety Zone*

All waters of the Nansemond River within a 350 yard radius of approximate position latitude 36°44'27" N, longitude 076°34'42" W, located near Constant's Wharf in Suffolk, VA.

*James River, Williamsburg, VA, Safety Zone*

All waters of the James River within a 350 yard radius of approximate position latitude 37°13'23.3" N, longitude 076°40'11.8" W, located near Kingsmill Resort.

*Edenton Bay, Edenton, NC, Safety Zone*

All waters within a 300 yard radius of position latitude 36°03'04" N, longitude 076°36'18" W, approximately 150 yards east of the entrance to Queen Anne Creek, Edenton, NC.

*Motts Channel, Banks Channel, Wrightsville Beach, NC, Safety Zone*

All waters of Motts Channel within a 300 yard radius of the fireworks barge in approximate position latitude 34°12'29" N, longitude 077°48'27" W, approximately 560 yards south of Sea Path Marina, Wrightsville Beach, NC.

*New River, Jacksonville, NC, Safety Zone*

All waters of the New River within a 300 yard radius of the fireworks launch

site in approximate position latitude 34°44'45" N, longitude 077°26'18" W, approximately one half mile south of the Hwy 17 Bridge, Jacksonville, North Carolina.

(b) The Coast Guard proposes to revise regulations at 33 CFR 165.506 by modifying 5 existing permanent safety zone locations as follows. All coordinates listed for the following safety zones reference Datum NAD 1983.

*Potomac River, Charles County, MD, Safety Zone*

All waters of the Potomac River within a 300 yard radius of the fireworks barge in approximate position latitude 38°20'18" N, longitude 077°15'00" W, approximately 700 yards north of the shoreline at Fairview Beach, Virginia.

*Northwest Harbor (West Channel) Patapsco River, MD, Safety Zone*

All waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position latitude 39°16'21" N, longitude 076°34'38" W, located adjacent to the West Channel of Northwest Harbor.

*Delaware River, Essington, PA, Safety Zone*

All the waters of the Delaware River near Essington, PA, west of Little Tinicum Island within a 250 yards radius of the fireworks barge located in the approximate position latitude 39°51'18" N, longitude 075°18'57" W.

*Atlantic Ocean, Virginia Beach, VA, Safety Zone*

All waters of the Atlantic Ocean within a 1000 yard radius of the center located near the shoreline at approximate position latitude 36°51'12" N, longitude 075°58'06" W, a safety zone located off the beach between 17th and 31st streets.

*Cape Fear River, Wilmington, NC, Safety Zone*

All waters of the Cape Fear River within an area bound by a line drawn from the following points: latitude 34°13'54" N, longitude 077°57'06" W; thence northeast to latitude 34°13'57" N, longitude 077°57'05" W; thence north to latitude 34°14'11" N, longitude 077°57'07" W; thence northwest to latitude 34°14'22" N, longitude 077°57'19" W; thence west to latitude 34°14'22" N, longitude 077°57'06" W; thence southeast to latitude 34°14'07" N, longitude 077°57'00" W; thence south to latitude 34°13'54" N, longitude 077°56'58" W; thence to the point of

origin, located approximately 500 yards north of Cape Fear Memorial Bridge.

### Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### *Regulatory Planning and Review*

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This finding is based on the short amount of time that vessels would be restricted from the zones, and the small zone sizes positioned in low vessel traffic areas. Vessels would not be precluded from getting underway, or mooring at any piers or marinas currently located in the vicinity of the proposed safety zones. Advance notifications would also be made to the local maritime community by issuing Local Notice to Mariners, Marine information and facsimile broadcasts so mariners can adjust their plans accordingly. Notifications to the public for most events will usually be made by local newspapers, radio and TV stations. The Coast Guard anticipates that each safety zone will only be enforced 2 to 3 times per year.

#### *Small Entities*

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would 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 and operators of vessels intending to transit or anchor in the proposed safety zones during the times these zones are enforced.

These proposed safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The enforcement period will be short in duration and in many of the zones vessels may transit safely around the safety zones. Generally, blanket permission to enter, remain in, or transit through these safety zones will be given except during the period that the Coast Guard patrol vessel is present. Before the enforcement period, we will issue maritime advisories widely.

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 (Pub. L. 104–121), we want to assist small entities in understanding this proposed 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**. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### *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*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed 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 proposed rule would not result in such an 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*

We have 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 would not create an environmental risk to health or risk to safety that might 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*

We have 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination under the Instruction that this action is not likely to have a significant effect on the human environment. An environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.506 to read as follows:

#### **§ 165.506 Safety Zones; Fifth Coast Guard District Fireworks Displays.**

(a) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) The following regulations apply to the fireworks safety zones listed in the Table to § 165.506. These regulations will be effective annually, for the duration of each fireworks event listed in the Table to § 165.506. In the case of inclement weather the event may be conducted on the day following the date listed in the Table to § 165.506. Annual notice of the exact dates and times of the effective period of the regulation with respect to each safety zone, the geographical area, and other details concerning the nature of the fireworks event will be published in Local Notices to Mariners and via Broadcast Notice to Mariners over VHF–FM marine band radio.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. Those personnel are comprised of commissioned, warrant, and petty officers of the U.S. Coast Guard. Other Federal, State and local agencies may assist these personnel in the enforcement of the safety zone. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(b) *Notification.* (1) Fireworks barges and launch sites on land that operate within the regulated areas contained in the Table to § 165.506 will have a sign affixed to the port and starboard side of the barge or mounted on a post 3 feet above ground level when on land immediately adjacent to the shoreline and facing the water labeled “FIREWORKS—DANGER—STAY AWAY”. This will provide on scene notice that the safety zone will be enforced on that day. This notice will consist of a diamond shaped sign 4 foot by 4 foot with a 3-inch orange retro reflective border. The word “DANGER”

shall be 10 inch black block letters centered on the sign with the words “FIREWORKS” and “STAY AWAY” in 6 inch black block letters placed above and below the word “DANGER” respectively on a white background.

(2) Coast Guard Captains of the Port in the Fifth Coast Guard District will notify the public of the enforcement of these safety zones by all appropriate means to effect the widest publicity among the affected segments of the public. Publication in the Local Notice to Mariners, marine information broadcasts, and facsimile broadcasts may be made for these events, beginning 24 to 48 hours before the event is scheduled to begin, to notify the public.

(c) *Contact information.* Questions about safety zones and related events should be addressed to the local Coast Guard Captain of the Port for the area in which the event is occurring. Contact information is listed below. For a description of the geographical area of each Coast Guard Sector—Captain of the Port zone, please see 33 CFR 3.25.

(1) Coast Guard Sector Delaware Bay—Captain of the Port Zone, Philadelphia, Pennsylvania: (215) 271–4944.

(2) Coast Guard Sector Baltimore—Captain of the Port Zone, Baltimore, Maryland: (410) 576–2525.

(3) Coast Guard Sector Hampton Roads—Captain of the Port Zone, Norfolk, Virginia: (757) 483–8567.

(4) Coast Guard Sector North Carolina—Captain of the Port Zone, Atlantic Beach, North Carolina: (252) 247–4545.

(d) *Enforcement period.* The safety zones in the Table to § 165.506 will be enforced from 5:30 p.m. to 1 a.m. each day a barge with a “FIREWORKS—DANGER—STAY AWAY” sign on the port and starboard side is on-scene or a “FIREWORKS—DANGER—STAY AWAY” sign is posted on land adjacent to the shoreline, in a location listed in the Table to § 165.506. Vessels may not enter, remain in, or transit through the safety zones during these enforcement periods unless authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene.

TABLE TO § 165.506

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983.]

Number	Date	Location	Regulated area
<b>(a) Coast Guard Sector Delaware Bay—COTP Zone</b>			
(1) .....	July 4th .....	North Atlantic Ocean, Bethany Beach, DE, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks launch platform in approximate position latitude 38°32'08" N, longitude 075°03'15" W, adjacent to shoreline of Bethany Beach, DE.
(2) .....	Labor Day .....	Indian River Bay, DE, Safety Zone.	All waters of the Indian River Bay within a 360 yard radius of the fireworks launch location on the pier in approximate position latitude 38°36'42" N, longitude 075°08'18" W, about 700 yards east of Pots Net Point, DE.
(3) .....	July 4th .....	Atlantic Ocean, Rehoboth Beach, DE, Safety Zone.	All waters of the Atlantic Ocean within a 360 yard radius of the fireworks barge in approximate position latitude 38°43'01.2" N, longitude 075°04'21" W, approximately 400 yards east of Rehoboth Beach, DE.
(4) .....	July 4th .....	North Atlantic Ocean, Avalon, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 39°05'31" N, longitude 074°43'00" W, in the vicinity of the shoreline at Avalon, NJ.
(5) .....	July 4th, September—2nd Saturday.	Barnegat Bay, Barnegat Township, NJ, Safety Zone.	The waters of Barnegat Bay within a 500 yard radius of the fireworks barge in approximate position latitude 39°44'50" N, longitude 074°11'21" W, approximately 500 yards north of Conklin Island, NJ.
(6) .....	July 4th .....	North Atlantic Ocean, Cape May, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 38°55'36" N, longitude 074°55'26" W, immediately adjacent to the shoreline at Cape May, NJ.
(7) .....	July 3rd .....	Delaware Bay, North Cape May, NJ, Safety Zone.	All waters of the Delaware Bay within a 500 yard radius of the fireworks barge in approximate position latitude 38°58'00" N, longitude 074°58'30" W.
(8) .....	August—3rd Sunday .....	Great Egg Harbor Inlet, Margate City, NJ, Safety Zone.	All waters within a 500 yard radius of the fireworks barge in approximate location latitude 39°19'33" N, longitude 074°31'28" W, on the Intracoastal Waterway near Margate City, NJ.
(9) .....	July 4th, August every Thursday September 1st Thursday.	Metedeconk River, Brick Township, NJ, Safety Zone.	The waters of the Metedeconk River within a 300 yard radius of the fireworks launch platform in approximate position latitude 40°03'24" N, longitude 074°06'42" W, near the shoreline at Brick Township, NJ.
(10) .....	July 4th .....	North Atlantic Ocean, Ocean City, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge in approximate location latitude 39°16'22" N, longitude 074°33'54" W, in the vicinity of the shoreline at Ocean City, NJ.
(11) .....	May—4th Saturday .....	Barnegat Bay, Ocean Township, NJ, Safety Zone.	All waters of Barnegat Bay within a 500 yard radius of the fireworks barge in approximate position latitude 39°47'33" N, longitude 074°10'46" W.
(12) .....	July 4th .....	Little Egg Harbor, Parker Island, NJ, Safety Zone.	All waters of Little Egg Harbor within a 500 yard radius of the fireworks barge in approximate position latitude 39°34'18" N, longitude 074°14'43" W, approximately 100 yards north of Parkers Island.
(13) .....	September—3rd Saturday .....	Delaware River, Chester, PA, Safety Zone.	All waters of the Delaware River near Chester, PA just south of the Commodore Barry Bridge within a 250 yards radius of the fireworks barge located in approximate position latitude 39°49'43.2" N, longitude 075°22'42" W.
(14) .....	September—3rd Saturday .....	Delaware River, Essington, PA, Safety Zone.	All the waters of the Delaware River near Essington, PA, west of Little Tinicum Island within a 250 yards radius of the fireworks barge located in the approximate position latitude 39°51'18" N, longitude 075°18'57" W.
(15) .....	July 4th, Columbus Day, December 31st, January 1st.	Delaware River, Philadelphia, PA, Safety Zone.	All waters of Delaware River, adjacent to Penns Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline at latitude 39°56'31.2" N, longitude 075°08'28.1" W; thence to latitude 39°56'29.1" N, longitude 075°07'56.5" W, and bounded on the north by the Benjamin Franklin Bridge.
<b>(b) Coast Guard Sector Baltimore—COTP Zone</b>			
(1) .....	April—1st Saturday .....	Washington Channel, Upper Potomac River, Washington, DC, Safety Zone.	All waters of the Upper Potomac River within a 150 yard radius of the fireworks barge in approximate position latitude 38°52'09" N, longitude 077°01'13" W, located within the Washington Channel in Washington Harbor, DC.

TABLE TO § 165.506—Continued

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983.]

Number	Date	Location	Regulated area
(2) .....	July 4th, December—1st and 2nd Saturday, December 31st.	Severn River and Spa Creek, Annapolis, MD, Safety Zone.	All waters of the Severn River and Spa Creek within an area bounded by a line drawn from latitude 38°58'39.6" N, longitude 076°28'49" W; thence to latitude 38°58'41" N, longitude 076°28'14" W; thence to latitude 38°59'01" N, longitude 076°28'37" W; thence to latitude 38°58'57" N, longitude 076°28'40" W, located near the entrance to Spa Creek in Annapolis, Maryland.
(3) .....	Saturday before Independence Day holiday.	Middle River, Baltimore County, MD, Safety Zone.	All waters of the Middle River within a 300 yard radius of the fireworks barge in approximate position latitude 39°17'45" N, longitude 076°23'49" W, approximately 300 yards east of Rockaway Beach, near Turkey Point.
(4) .....	July 4th, December 31st .....	Patapsco River (Middle Branch), Baltimore, MD, Safety Zone.	All waters of the Patapsco River, Middle Branch, within an area bound by a line drawn from the following points: latitude 39°15'22" N, longitude 076°36'36" W; thence to latitude 39°15'10" N, longitude 076°36'00" W; thence to latitude 39°15'40" N, longitude 076°35'23" W; thence to latitude 39°15'49" N, longitude 076°35'47" W; thence to the point of origin, located approximately 600 yards east of Hanover Street (SR-2) Bridge.
(5) .....	June 14th, July 4th, September—2nd Saturday, December 31st.	Northwest Harbor (East Channel), Patapsco River, MD, Safety Zone.	All waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position 39°15'55" N, 076°34'35" W, located adjacent to the East Channel of Northwest Harbor.
(6) .....	May—3rd Friday, July 4th, December 31st.	Baltimore Inner Harbor, Patapsco River, MD, Safety Zone.	All waters of the Patapsco River within a 150 yard radius of the fireworks barge in approximate position latitude 39°16'55" N, longitude 076°36'17" W, located at the entrance to Baltimore Inner Harbor, approximately 150 yards southwest of pier 6.
(7) .....	May—3rd Friday, July 4th, December 31st.	Baltimore Inner Harbor, Patapsco River, MD, Safety Zone.	The waters of the Patapsco River within a 100 yard radius of approximate position latitude 39°17'03" N, longitude 076°36'36" W, located in Baltimore Inner Harbor, approximately 150 yards southeast of pier 1.
(8) .....	July 4th, December 31st .....	Northwest Harbor (West Channel) Patapsco River, MD, Safety Zone.	All waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position latitude 39°16'21" N, longitude 076°34'38" W, located adjacent to the West Channel of Northwest Harbor.
(9) .....	July 4th .....	Patuxent River, Calvert County, MD, Safety Zone.	All waters of the Patuxent River within a 280 yard radius of the fireworks barge in approximate position latitude 38°19'06.6" N, longitude 076°26'10.1" W, approximately 1450 yards west of Drum Point, MD.
(10) .....	July 4th .....	Patuxent River, Solomons Island, Calvert County, MD, Safety Zone.	All waters of the Patuxent River within a 400 yard radius of the fireworks barge located at latitude 38°19'03" N, longitude 076°26'07.6" W.
(11) .....	July 4th .....	Patuxent River, Solomons Island, MD, Safety Zone.	All waters of Patuxent River within a 300 yard radius of the fireworks barge in an area bound by the following points: latitude 38°19'42" N, longitude 076°28'02" W; thence to latitude 38°19'26" N, longitude 076°28'18" W; thence to latitude 38°18'48" N, longitude 076°27'42" W; thence to latitude 38°19'06" N, longitude 076°27'25" W; thence to the point of origin, located near Solomons Island, MD.
(12) .....	July 4th .....	Chester River, Kent Island Narrows, MD, Safety Zone.	All waters of the Chester River, within an area bound by a line drawn from the following points: latitude 38°58'50" N, longitude 076°15'00" W; thence north to latitude 38°59'00" N, longitude 076°15'00" W; thence east to latitude 38°59'00" N, longitude 076°14'46" W; thence southeast to latitude 38°58'50" N, longitude 076°14'28" W; thence southwest to latitude 38°58'37" N, longitude 076°14'36" W, thence northwest to latitude 38°58'42" N, longitude 076°14'55" W, thence to the point of origin, located approximately 900 yards north of Kent Island Narrows (US-50/301) Bridge.
(13) .....	July 3rd .....	Chesapeake Bay, Chesapeake Beach, MD, Safety Zone.	All waters of the Chesapeake Bay within a 150 yard radius of the fireworks barge in approximate position latitude 38°41'33" N, longitude 076°31'48" W, located near Chesapeake Beach, Maryland.
(14) .....	July 4th .....	Choptank River, Cambridge, MD, Safety Zone.	All waters of the Choptank River within a 300 yard radius of the fireworks launch site at Great Marsh Point, located at latitude 38°35'06" N, longitude 076°04'46" W.
(15) .....	July—2nd and last Saturday ....	Potomac River, Charles County, MD, Safety Zone.	All waters of the Potomac River within a 300 yard radius of the fireworks barge in approximate position latitude 38°20'18" N, longitude 077°15'00" W, approximately 700 yards north of the shoreline at Fairview Beach, Virginia.



TABLE TO § 165.506—Continued

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983.]

Number	Date	Location	Regulated area
(16) .....	May—last Saturday, July 4th ...	Potomac River, Charles County, MD—Mount Vernon, Safety Zone.	All waters of the Potomac River within a 300 yard radius of the fireworks launch site near the Mount Vernon Estate, in Fairfax County, Virginia, located at latitude 38°42'24" N, longitude 077°04'56" W.
(17) .....	October—1st Saturday .....	Dukeharts Channel, Potomac River, MD, Safety Zone.	All waters of the Potomac River within a 300 yard radius of the fireworks barge in approximate position latitude 38°13'48" N, longitude 076°44'37" W, located adjacent to Dukeharts Channel near Coltons Point, Maryland.
(18) .....	July—Day before Independence Day holiday, November—last Friday.	Potomac River, National Harbor, MD, Safety Zone.	All waters of the Potomac River within an area bound by a line drawn from the following points: latitude 38°47'18" N, longitude 077°01'01" W; thence to latitude 38°47'11" N, longitude 077°01'26" W; thence to latitude 38°47'25" N, longitude 077°01'33" W; thence to latitude 38°47'32" N, longitude 077°01'08" W; thence to the point of origin, located at National Harbor, Maryland.
(19) .....	July 4th, September—last Saturday.	Susquehanna River, Havre de Grace, MD, Safety Zone.	All waters of the Susquehanna River within a 150 yard radius of the fireworks barge in approximate position latitude 39°32'42" N, longitude 076°04'30" W, approximately 800 yards east of the waterfront at Havre de Grace, MD.
(20) .....	June and July—Saturday before Independence Day holiday.	Miles River, St. Michaels, MD, Safety Zone.	All waters of the Miles River within a 200 yard radius of the fireworks barge in approximate position latitude 38°47'42" N, longitude 076°12'23" W, located near the waterfront of St. Michaels, Maryland.
(21) .....	June and July—Saturday or Sunday before Independence Day holiday.	Tred Avon River, Oxford, MD, Safety Zone.	All waters of the Tred Avon River within a 150 yard radius of the fireworks barge in approximate position latitude 38°41'48" N, longitude 076°10'38" W, approximately 500 yards northwest of the waterfront at Oxford, MD.
(22) .....	July 3rd .....	Northeast River, North East, MD, Safety Zone.	All waters of the Northeast River within a 300 yard radius of the fireworks barge in approximate position latitude 39°35'26" N, longitude 075°57'00" W, approximately 400 yards south of North East Community Park.
(23) .....	June—2nd or 3rd Saturday, July—1st or 2nd Saturday, September—1st or 2nd Saturday.	Upper Potomac River, Alexandria, VA, Safety Zone.	All waters of the Upper Potomac River within a 300 yard radius of the fireworks barge in approximate position 38°48'37" N, 077°02'02" W, located near the waterfront of Alexandria, Virginia.
(24) .....	March through October, at the conclusion of evening MLB games at Washington Nationals Ball Park.	Anacostia River, Washington, DC, Safety Zone.	All waters of the Anacostia River within a 150 yard radius of the Fireworks discharge site located near the shoreline at Washington Nationals Ball Park in approximate position latitude 38°52'18" N, longitude 077°00'20" W,
(25) .....	June—last Saturday .....	Potomac River, Prince William County, VA, Safety Zone.	All waters of the Potomac River within a 200 yard radius of the fireworks barge in approximate position latitude 38°34'08" N, longitude 077°15'34" W, located near Cherry Hill, Virginia.

(c) Coast Guard Sector Hampton Roads—COTP Zone

(1) .....	July 4th .....	Atlantic Ocean, Ocean City, MD, Safety Zone.	All waters of the Atlantic Ocean in an area bound by the following points: latitude 38°19'39.9" N, longitude 075°05'03.2" W; thence to latitude 38°19'36.7" N, longitude 075°04'53.5" W; thence to latitude 38°19'45.6" N, longitude 075°04'49.3" W; thence to latitude 38°19'49.1" N, longitude 075°05'00.5" W; thence to point of origin. The size of the proposed zone extends approximately 300 yards offshore from the fireworks launch area located at the High Water mark on the beach.
(2) .....	May—4th Sunday, June—3rd Monday, July 4th, August—1st and 4th Sunday, September—1st and 4th Sunday.	Isle of Wight Bay, Ocean City, MD, Safety Zone.	All waters of Isle of Wight Bay within a 350 yard radius of the fireworks barge in approximate position latitude 38°22'32" N, longitude 075°04'30" W.
(3) .....	July 4th .....	Assawoman Bay, Fenwick Island—Ocean City, MD, Safety Zone.	All waters of Assawoman Bay within a 360 yard radius of the fireworks launch location on the pier at the West end of Northside Park, in approximate position latitude 38°25'57.6" N, longitude 075°03'55.8" W.
(4) .....	July 4th .....	Broad Bay, Virginia Beach, VA, Safety Zone.	All waters of the Broad Bay within a 400 yard radius of the fireworks display in approximate position latitude 36°52'08" N, longitude 076°00'46" W, located on the shoreline near the Cavalier Golf and Yacht Club, Virginia Beach, Virginia.
(5) .....	October—1st Friday .....	York River, West Point, VA, Safety Zone.	All waters of the York River near West Point, VA within a 400 yard radius of the fireworks display located in approximate position latitude 37°31'25" N, longitude 076°47'19" W.

TABLE TO § 165.506—Continued

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983.]

Number	Date	Location	Regulated area
(6) .....	July 4th .....	York River, Yorktown, VA, Safety Zone.	All waters of the York River within a 400 yard radius of the fireworks display in approximate position latitude 37°14'14" N, longitude 076°30'02" W, located near Yorktown, Virginia.
(7) .....	July 4th .....	Chincoteague Channel, Chincoteague, VA, Safety Zone.	All waters of the Chincoteague Channel within a 360 yard radius of the fireworks launch location at the Chincoteague carnival waterfront in approximate position latitude 37°55'40.3" N, longitude 075°23'10.7" W, approximately 900 yards southwest of Chincoteague Swing Bridge.
(8) .....	May—1st Friday, July 4th .....	James River, Newport News, VA, Safety Zone.	All waters of the James River within a 325 yard radius of the fireworks barge in approximate position latitude 36°58'30" N, longitude 076°26'19" W, located in the vicinity of the Newport News Shipyard, Newport News, Virginia.
(9) .....	July 9th .....	Chesapeake Bay, Hampton, VA, Safety Zone.	All waters of the Chesapeake Bay within a 350 yard radius of approximate position latitude 37°02'23" N, longitude 076°17'22" W, located near Buckroe Beach.
(10) .....	June—4th Friday .....	Chesapeake Bay, Norfolk, VA, Safety Zone.	All waters of the Chesapeake Bay within a 400 yard radius of the fireworks display located in position latitude 36°57'21" N, longitude 076°15'00" W, located near Ocean View Fishing Pier.
(11) .....	July 4th .....	Chesapeake Bay, Virginia Beach, VA, Safety Zone.	All waters of the Chesapeake Bay 400 yard radius of the fireworks display in approximate position latitude 36°55'02" N, longitude 076°03'27" W, located at the First Landing State Park at Virginia Beach, Virginia.
(12) .....	Memorial Day, June—1st and 2nd Friday, Saturday and Sunday, July 4th, November—4th Saturday, December—1st Saturday and December 31st, January—1st.	Elizabeth River, Southern Branch, Norfolk, VA, Safety Zone.	All waters of the Elizabeth River Southern Branch in an area bound by the following points: latitude 36°50'54.8" N, longitude 076°18'10.7" W; thence to latitude 36°51'7.9" N, longitude 076°18'01" W; thence to latitude 36°50'45.6" N, longitude 076°17'44.2" W; thence to latitude 36°50'29.6" N, longitude 076°17'23.2" W; thence to latitude 36°50'7.7" N, longitude 076°17'32.3" W; thence to latitude 36°49'58" N, longitude 076°17'28.6" W; thence to latitude 36°49'52.6" N, longitude 076°17'43.8" W; thence to latitude 36°50'27.2" N, longitude 076°17'45.3" W thence to the point of origin.
(13) .....	May—2nd Saturday, September—1st Saturday and Sunday, December—1st Saturday.	Appomattox River, Hopewell, VA, Safety Zone.	All waters of the Appomattox River within a 400 yard radius of the fireworks barge in approximate position latitude 37°19'11" N, longitude 077°16'55" W.
(14) .....	July—3rd Saturday .....	John H. Kerr Reservoir, Clarksville, VA, Safety Zone.	All waters of John H. Kerr Reservoir within a 400 yard radius of approximate position latitude 36°37'51" N, longitude 078°32'50" W, located near the south end of the State Route 15 Highway Bridge.
(15) .....	May, June, July, August, September, October—every Wednesday, Friday, Saturday and Sunday, July 4th.	Atlantic Ocean, Virginia Beach, VA, Safety Zone. A.	All waters of the Atlantic Ocean within a 1000 yard radius of the center located near the shoreline at approximate position latitude 36°51'12" N, longitude 075°58'06" W, located off the beach between 17th and 31st streets.
(16) .....	September—4th Saturday .....	Atlantic Ocean, VA Beach, VA, Safety Zone. B.	All waters of the Atlantic Ocean within a 350 yard radius of approximate position latitude 36°50'35" N, longitude 075°58'09" W, located on the 14th Street Fishing Pier.
(17) .....	August—4th Friday and Saturday.	Atlantic Ocean, VA Beach, VA, Safety Zone. C.	All waters of the Atlantic Ocean within a 350 yard radius of approximate position latitude 36°49'55" N, longitude 075°58'00" W, located off the beach between 2nd and 6th streets.
(18) .....	July 4th .....	Nansemond River, Suffolk, VA, Safety Zone.	All waters of the Nansemond River within a 350 yard radius of approximate position latitude 36°44'27" N, longitude 076°34'42" W, located near Constant's Wharf in Suffolk, VA.
(19) .....	February—4th Saturday, July 4th.	Chickahominy River, Williamsburg, VA, Safety Zone.	All waters of the Chickahominy River within a 400 yard radius of the fireworks display in approximate position latitude 37°14'50" N, longitude 076°52'17" W, near Barrets Point, Virginia.
(20) .....	July 4th .....	James River, Williamsburg, VA, Safety Zone.	All waters of the James River within a 350 yard radius of approximate position latitude 37°13'23.3" N, longitude 076°40'11.8" W, located near Kingsmill Resort.

**(d) Coast Guard Sector North Carolina—COTP Zone**

(1) .....	July 4th, October—1st Friday ...	Morehead City Harbor Channel, NC, Safety Zone.	All waters of the Morehead City Harbor Channel that fall within a 360 yard radius of latitude 34°43'01" N, longitude 076°42'59.6" W, a position located at the west end of Sugar Loaf Island, NC.
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TABLE TO § 165.506—Continued

[All coordinates listed in the Table to § 165.506 reference Datum NAD 1983.]

Number	Date	Location	Regulated area
(2) .....	April—2nd Saturday, July 4th, August—3rd Monday, October—1st Friday.	Cape Fear River, Wilmington, NC, Safety Zone.	All waters of the Cape Fear River within an area bound by a line drawn from the following points: latitude 34°13'54" N, longitude 077°57'06" W; thence northeast to latitude 34°13'57" N, longitude 077°57'05" W; thence north to latitude 34°14'11" N, longitude 077°57'07" W; thence northwest to latitude 34°14'22" N, longitude 077°57'19" W; thence west to latitude 34°14'22" N, longitude 077°57'06" W; thence southeast to latitude 34°14'07" N, longitude 077°57'00" W; thence south to latitude 34°13'54" N, longitude 077°56'58" W; thence to the point of origin, located approximately 500 yards north of Cape Fear Memorial Bridge.
(3) .....	July 4th .....	Green Creek and Smith Creek, Oriental, NC, Safety Zone.	All waters of Green Creek and Smith Creek that fall within a 300 yard radius of the fireworks launch site at latitude 35°01'29.6" N, longitude 076°42'10.4" W, located near the entrance to the Neuse River in the vicinity of Oriental, NC.
(4) .....	July 4th .....	Pasquotank River, Elizabeth City, NC, Safety Zone.	All waters of the Pasquotank River within a 300 yard radius of the fireworks launch site in approximate position latitude 36°18'00" N, longitude 076°13'00" W, approximately 200 yards south of the east end of the Elizabeth City Bascule Bridges.
(5) .....	July 4th .....	Currituck Sound, Corolla, NC, Safety Zone.	All waters of the Currituck Sound within a 300 yard radius of the fireworks barge in approximate position latitude 36°22'48" N, longitude 075°51'15" W.
(6) .....	July 4th, November—3rd Saturday.	Middle Sound, Figure Eight Island, NC, Safety Zone.	All waters of the Figure Eight Island Causeway Channel from latitude 34°16'32" N, longitude 077°45'32" W, thence east along the marsh to a position located at latitude 34°16'19" N, longitude 077°44'55" W, thence south to the causeway at position latitude 34°16'16" N, longitude 077°44'58" W, thence west along the shoreline to position latitude 34°16'29" N, longitude 077°45'34" W, thence back to the point of origin.
(7) .....	June—2nd Saturday, July—1st Saturday after July 4th.	Pamlico River, Washington, NC, Safety Zone.	All waters of the Pamlico River that fall within a 300 yard radius of the fireworks launch site at latitude 35°32'19" N, longitude 077°03'20.5" W, located 500 yards north of Washington railroad trestle bridge.
(8) .....	July 4th .....	Neuse River, New Bern, NC, Safety Zone.	All waters of the Neuse River within a 360 yard radius of the fireworks barge in approximate position latitude 35°06'07.1" N, longitude 077°01'35.8" W, located 420 yards north of the New Bern, Twin Span, high rise bridge.
(9) .....	July 4th .....	Edenton Bay, Edenton, NC, Safety Zone.	All waters within a 300 yard radius of position latitude 36°03'04" N, longitude 076°36'18" W, approximately 150 yards east of the entrance to Queen Anne Creek, Edenton, NC.
(10) .....	July 4th, November—4th Monday.	Motts Channel, Banks Channel, Wrightsville Beach, NC, Safety Zone.	All waters of Motts Channel within a 300 yard radius of the fireworks barge in approximate position latitude 34°12'29" N, longitude 077°48'27" W, approximately 560 yards south of Sea Path Marina, Wrightsville Beach, NC.
(11) .....	July 4th .....	Cape Fear River, Southport, NC, Safety Zone.	All waters of the Cape Fear River within a 600 yard radius of the fireworks barge in approximate position latitude 33°54'40" N, longitude 078°01'18" W, approximately 700 yards south of the waterfront at Southport, NC.
(12) .....	July 4th .....	Big Foot Slough, Ocracoke, NC, Safety Zone.	All waters of Big Foot Slough within a 300 yard radius of the fireworks launch site in approximate position latitude 35°06'54" N, longitude 075°59'24" W, approximately 100 yards west of the Silver Lake Entrance Channel at Ocracoke, NC.
(13) .....	August—1st Tuesday .....	New River, Jacksonville, NC, Safety Zone.	All waters of the New River within a 300 yard radius of the fireworks launch site in approximate position latitude 34°44'45" N, longitude 077°26'18" W, approximately one half mile south of the Hwy 17 Bridge, Jacksonville, North Carolina.

Dated: October 23, 2008.

**Fred M. Rosa, Jr.,**

*Rear Admiral, U.S. Coast Guard, Commander,  
Fifth Coast Guard District.*

[FR Doc. E8-27007 Filed 11-13-08; 8:45 am]

**BILLING CODE 4910-15-P**

## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3001

[Docket No. RM2009-1; Order No. 130]

#### Periodic Reporting Rules

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Proposed rule; availability of rulemaking petition.

**SUMMARY:** Under a new law, the Postal Service must file an annual compliance report with the Postal Regulatory Commission on costs, revenues, rates, and quality of service associated with its products. It has filed documents with the Commission to change some of the methods it uses to compile the fiscal year 2008 report. In the Commission's view, these documents constitute a rulemaking petition. Therefore, this document provides an opportunity for the public to comment on potential changes in periodic reporting rules.

**DATES:** 1. Reserved for technical conference: November 21, 2008.

2. Initial comments: December 1, 2008.

3. Reply comments: December 10, 2008.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202-789-6820 and [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

73 FR 51983 (September 8, 2008).

73 FR 55464 (September 25, 2008).

On November 4, 2008, the Postal Service filed a petition to initiate an informal rulemaking proceeding to change accepted costing methods for purposes of periodic reporting.<sup>1</sup> The informal rulemaking procedures proposed would be comparable to those followed in Docket Nos. RM2008-2 and RM2008-6. In Docket No. RM2008-2, nine numbered proposals were the

subject of notice and comment rulemaking procedures. In Docket No. RM2008-6, the Postal Service proposed two additional proposals to change costing methods, numbered ten and eleven. The costing proposals in these dockets were evaluated in Order No. 115 (October 10, 2008), and Order No. 118 (October 22, 2008), respectively. The Postal Service refers to the change in accepted cost methods that it proposes in this docket as Proposal Twelve. Labeling it Proposal Twelve indicates that the proposal is sequential to, but distinguishable from, the proposals in the two earlier dockets. See Petition at 1.

*Substance of the Postal Service's proposal.* Proposal Twelve is a proposal to use data recently gathered in the field to update inputs used in the cost avoidance models for flats generally, and for Periodicals flats, in particular. Some new parameters for these models are proposed as well. Proposal Twelve continues the work of updating the Periodicals cost avoidance models that were first presented by the Postal Service in the FY 2007 Annual Compliance Report (ACR) and evaluated by the Commission in the FY 2007 Annual Compliance Determination (ACD). The petition explains that the Postal Service will soon provide similar updates of the First-Class and Standard Mail flats cost avoidance models.

The petition is accompanied by electronic attachments that contain the new input data, the sample designs used in their collection, and the instructions to the data collectors. The petition explains the background, objectives, and rationale for Proposal Twelve, and how the impact in FY 2008 of each proposed change in input data or parameters can be identified from the attachments provided.

*Procedural expedition.* The same factors that led the Commission to expedite review of the eleven proposals disposed of in Docket Nos. RM2008-2 and RM2008-6 apply here. The set of changes that make up Proposal Twelve, however, appears to be more substantial and more complex than many of those evaluated in Docket Nos. RM2008-2 and RM2008-6. A countervailing consideration is that the time remaining before the FY 2008 ACR is due is much shorter than in those earlier dockets. Balancing these conflicting considerations will be difficult, given the rapidly approaching holidays and year-end convergence of numerous regulatory deadlines.

The Postal Service explains that any technical conference deemed necessary to further explain Proposal Twelve would require it to bring consultants in

from out of town. Therefore, it requests that a technical conference not be scheduled ahead of time until the need for it is confirmed. *Id.* at 2. The Postal Service should reserve November 21, 2008, for a technical conference to take place if the Commission is ultimately persuaded that a technical conference is needed to expedite evaluation of Proposal Twelve. To allow for the possibility of a technical conference and, if held, to provide time for the information gained at such a conference to be reflected in public comments, comments on Proposal Twelve are due on or before December 1, 2008. Reply comments are due on December 10, 2008. This schedule may make it difficult to issue a final order in time to have these proposals reflected in the FY 2008 ACR, which is due on December 29, 2008, but at least that goal would remain a possibility.

#### *It is Ordered:*

1. The Commission establishes Docket No. RM2009-1 to consider the Petition of the United States Postal Service Requesting Initiation of a Proceeding To Consider Further Proposed Methodology Changes for the FY 2008 ACR (Proposal Twelve), filed November 4, 2008.

2. Interested persons may submit initial comments on or before December 1, 2008.

3. Reply comments may be submitted on or before December 10, 2008.

4. William C. Miller is designated as the Public Representative representing the interests of the general public in this proceeding.

5. The Secretary shall arrange for publication of this notice in the **Federal Register**.

**Authority:** 39 U.S.C. 3652.

By the Commission.

**Steven W. Williams,**

*Secretary.*

[FR Doc. E8-27055 Filed 11-13-08; 8:45 am]

**BILLING CODE 7710-FW-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 131

[EPA-HQ-OW-2007-93; FRL-8740-3]

#### Removing the Federal Antidegradation Policy Applicable to Waters of the United States Within the Commonwealth of Pennsylvania

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Re-opening of the public comment period for the proposed rule.