

submissions accordingly to the report, its findings, and conclusions.

Dated : April 21 , 2016.

**Richard Cordray,**

*Director, Bureau of Consumer Financial Protection.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2016-0131]

RIN 1625-AA00

#### Safety Zone, Shallowbag Bay; Manteo, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone on the navigable waters of Shallowbag Bay, in Manteo, NC. This proposed safety zone would restrict vessel movement from a portion of Shallowbag Bay River during the Manteo July 4th Celebration Fireworks display. This action is necessary for the safety of life and property on the surrounding navigable waters during the fireworks display. The Coast Guard invites comments on this proposed rule.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 11, 2016.

**ADDRESSES:** You may submit comments identified by docket number USCG-2016-0131 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email LCDR Derek J. Burrill, Coast Guard Sector North Carolina, Coast Guard; telephone (910) 772-2230, email [Derek.J.Burrill@uscg.mil](mailto:Derek.J.Burrill@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section  
 U.S.C. United States Code

##### II. Background, Purpose, and Legal Basis

On July 4, 2016 fireworks will be launched from a barge located in Shallowbag Bay in Manteo, North Carolina as part of the Manteo July 4th Celebration. The Captain of the Port North Carolina (COTP) proposes to establish a temporary safety zone on specified waters of Shallowbag Bay within a 200 yard radius of a barge anchor. This safety zone would be effective and enforced from 9:00 p.m. to 10:30 p.m. on July 4, 2016 with a rain date of July 5, 2016. Access to the safety zone would be restricted during the specified date and time.

The purpose of this temporary safety zone is to ensure the safety of vessels and spectators from hazards associated with the fireworks display, such as accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

The legal basis for the rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 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; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

##### III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 9:00 p.m. to 10:30 p.m. on July 4, 2016 with a rain date being July 5, 2016. The safety zone would cover all navigable waters within 200 yards of barge anchor. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9:30 to 10:00 p.m. fireworks display. All persons and vessels would need to comply with the instructions of the COTP or his designated representative. Except for vessels authorized by the COTP or his designated representative, no person or vessel would be allowed to enter or remain in the safety zone. Notification of the temporary safety zone would be provided to the public via marine information broadcasts.

##### IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders and we discuss First Amendment rights of protestors.

###### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is

necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of Shallowbag Bay, Manteo, North Carolina for less than 1 hour. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

###### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

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.

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. 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 person listed in the **FOR FURTHER INFORMATION**

**CONTACT** section. 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.

### C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### E. 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 (adjusted for inflation) 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.

### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42

U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves: A safety zone lasting less than 2 hours that would prohibit entry within 200 yards of a fireworks barge. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.ID. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if

you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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. 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. Add temporary § 165.T05–0437 to read as follows:

#### § 165.T05–0437 Safety Zone, Shallowbag Bay; Manteo, NC.

(a) Definitions. For the purposes of this section, “Captain of the Port” means the Commander, Sector North Carolina. “Representative” means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) Location. The following area is a safety zone: All waters on Shallowbag Bay within a 200 yard radius of a barge anchor in position 35°54'31" N., longitude 075°39'46" W. (NAD 1983).

(c) Regulations. (1) The general regulations contained in § 165.23 of this part apply to the area described in paragraph (b) of this section.

(2) Persons or vessels requesting entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or a designated representative. The Captain of the Port or his designated representative can be contacted at telephone number (910) 343–3882 or by radio on VHF Marine Band Radio, channels 13 and 16.

(d) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) Enforcement period. This section will be enforced from 9:00 p.m. to 10:30 p.m. on July 4, 2016 or a rain date of July 5, 2016 unless cancelled earlier by the Captain of the Port.

Dated: April 7, 2016.

**J.S. Dufresne,**

*Captain, U.S. Coast Guard, Captain of the Port North Carolina.*

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## LIBRARY OF CONGRESS

### Copyright Royalty Board

#### 37 CFR Chapter III

[Docket No. 15-CRB-0010-CA]

#### Adjustment of Cable Statutory License Royalty Rates

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Proposed rule.

**SUMMARY:** The Copyright Royalty Judges (Judges) publish for comment proposed regulations governing royalty rates and terms for the distant retransmission of over-the-air television and radio broadcast stations by cable television systems to their subscribers.

**DATES:** Comments are due no later than May 17, 2016.

**ADDRESSES:** Submit electronic comments via email to [crb@loc.gov](mailto:crb@loc.gov) or online at <http://www.regulations.gov>. Those who choose not to submit comments electronically should see How to Submit Comments in the **SUPPLEMENTARY INFORMATION** section below for physical addresses and further instructions. The proposed rule is also posted on the agency's Web site ([www.loc.gov/crb](http://www.loc.gov/crb)).

**FOR FURTHER INFORMATION CONTACT:** Kimberly Whittle, Attorney Advisor, by telephone at (202) 707-7658, or by email at [crb@loc.gov](mailto:crb@loc.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

On January 15, 2016, the Copyright Royalty Judges (Judges) received a motion from the National Cable & Telecommunications Association, the American Cable Association, and a group referring to itself as the "Phase I Parties" requesting that the Judges adopt a partial settlement of the movants' interests regarding royalty rates and terms for the statutory copyright license for eligible cable retransmissions for the period 2015–2019. The settlement proposes that the rates, terms, and gross receipts limitations remain the same as those currently in effect. See 17 U.S.C. 111(d)(1)(B) and 37 CFR 256.2(c)–(d). Motion of the Participating Parties to Adopt Partial Settlement, Docket No. 15-CRB-0010-CA (2015–2019)

(Motion). The Judges hereby publish proposed regulations reflecting the proposed settlement and request comments from interested parties as required by 17 U.S.C. 801(b)(7)(A).

Section 111 of the Copyright Act grants a statutory copyright license to cable television systems for the distant retransmission of over-the-air television and radio broadcast stations to their subscribers. 17 U.S.C. 111(c). In exchange for the license, cable operators submit to the Copyright Office semiannually royalty payments and statements of account detailing their retransmissions. 17 U.S.C. 111(d)(1). The Copyright Office deposits the royalties into the United States Treasury for later distribution to copyright owners of the broadcast programming that the cable systems retransmit. 17 U.S.C. 111(d)(2).

A cable system calculates its royalty payments in accordance with the statutory formula described in 17 U.S.C. 111(d)(1). Royalty rates are based upon a cable system's gross receipts from subscribers who receive retransmitted broadcast signals. For rate calculation purposes, cable systems are divided into three tiers based on their gross receipts (small, medium, and large). 17 U.S.C. 111(d)(1)(B) through (F). Both the applicable rates and the tiers are subject to adjustment. 17 U.S.C. 801(b)(2).

Every five years persons with a significant interest in the royalty rates may file petitions to initiate a proceeding to adjust the rates. 17 U.S.C. 804(a) and (b). No person with a significant interest filed a petition to initiate a proceeding in 2015.<sup>1</sup> Therefore, the Judges initiated this rate adjustment proceeding by notice published in the **Federal Register** in June 2015. See 17 U.S.C. 801(b)(2), 803(b)(1), 804(a) and (b); 80 FR 35403 (Jun. 19, 2015).

The Judges received two joint Petitions to Participate, one from the

<sup>1</sup> The cable rates were last adjusted in 2005, at a time when the Copyright Office was transferring responsibility for royalty rate proceedings from Copyright Arbitration Royalty Panels (CARP) to the newly authorized Copyright Royalty Judges. Although the Judges commenced a rate proceeding relating to the 2010 rate adjustment, the Judges terminated it when passage of the Satellite Television Extension and Localism Act of 2010, Public Law 111-151, 124 Stat. 1027 ("2010 STELA"), rendered the proceeding unnecessary. See Order Granting Request to Terminate Proceeding, Docket No. 2010-1 CRB Cable Rate (July 13, 2010). At that time, although the act changed the relevant rates, neither the Register of Copyrights nor the Judges updated the statement of the prior rates in subsections (a) and (b) of section 256 of 37 CFR, the chapter of the Regulations applying to CARP. The STELA Reauthorization Act of 2014 did not change the cable royalty rates in § 111. See Public Law 113-200, 28 Stat. 2059 (Dec. 4, 2014).

National Cable & Telecommunications Association and the American Cable Association and another from a group referring to itself as the "Phase I Parties".<sup>2</sup> The Judges accepted these petitions and commenced a Voluntary Negotiation Period (VNP).

On December 15, 2015, at the conclusion of the VNP, all participants notified the Judges that they had settled and asked that cable retransmission rates remain unchanged for the rate period 2015 to 2019, inclusive. On November 23, 2015, however, one of the participants, the Joint Sports Claimants (JSC),<sup>3</sup> had filed a "Petition . . . to Initiate Cable Royalty Rate Adjustment Proceedings" with a self-styled caption indicating a proceeding for cable rate adjustments "for Retransmission of Certain Sports Telecasts." Given the seemingly conflicting positions of the JSC, the Judges rejected the settlement, without prejudice.

The settling participants have now asked that the Judges adopt the settlement and permit continuing proceedings to determine whether and to what degree to make a rate adjustment under section 801(b)(2)(C). Motion at 1, 6–7. Section 801(b)(2)(C) provides for adjustment proceedings<sup>4</sup> in the event the Federal Communications Commission (FCC) changes its rule "with respect to . . . sports program exclusivity. . . ." The JSC base their November 23, 2015 petition on an FCC rule change, *viz.*, repeal of the sports exclusivity rules, effective November 24, 2014.<sup>5</sup> The Judges announce

<sup>2</sup> The Phase I Parties consist of Program Suppliers, Joint Sports Claimants, Public Television Claimants, Commercial Television Claimants, Music Claimants, Canadian Claimants Group, National Public Radio, and Devotional Claimants.

<sup>3</sup> Joint Sports Claimants are: The National Basketball Association, the National Collegiate Athletic Association, the National Football League, the National Hockey League, the Office of the Commissioner of Baseball, and the Women's National Basketball Association.

<sup>4</sup> Apart from the quinquennial proceedings required by § 804 of the Act.

<sup>5</sup> Petition of the Joint Sports Claimants to Initiate Cable Royalty Rate Adjustment Proceedings (Nov. 23, 2015). In its petition, JSC requests that the Judges "initiate proceedings to adjust the cable statutory license royalty rates 'to assure that such rates are reasonable in light of the repeal of the Sports Blackout Rules.'" Petition at 1. In its Motion to Adopt Partial Settlement, the self-styled "Participating Parties," which includes JSC, states that "[t]he Joint Sports Rule Petition requests a new Section 111 royalty rate pursuant to 17 U.S.C. 801(b)(2)(C) to account for the November 2014 elimination of the [FCC's] Sports Rule (a "Sports Rule Surcharge")." Motion at 1–2. According to the Motion, "[n]either the Judges nor their predecessors have previously conducted any proceeding under Section 801(b)(2)(C) to consider the adoption of a cable rate to account for changes in the FCC Sports Rule," although Section 801(b)(2)(C) has been invoked twice since its enactment with respect to

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