

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>, click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG-2012-0078" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit 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. 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 using one of the four methods specified under **ADDRESSES**. Please explain 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**.

#### Basis and Purpose

The legal basis for test deviations to drawbridge operating schedules is the Coast Guard's authority to regulate drawbridge operations: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

The purpose of the test deviation is to determine whether the current drawbridge operation schedule meets the needs of navigation and land traffic.

#### Discussion

The Miami Marlins Organization has requested bridge opening limitations to the N.W. 12th Avenue Bridge over the Miami River mile 2.1, in Miami, Florida, in order to determine whether traffic congestion during Miami Marlins home baseball games poses a safety concern and whether a brief closure will mitigate such congestion. This 90 day test deviation will allow this bridge to remain closed to navigation from 6:46 p.m. until 7:30 p.m., Monday through Friday, during Miami Marlins home baseball games on April 4, 13, 17, 18, 19, 27, 30; May 11, 14, 15, 21, 22, 23, 24, 25, 28, 29, 30; June 5, 6, 7, 8, 11, 12, 13, 22, 25, 26, 27, and 29.

The N.W. 12th Avenue Bridge provides a vertical clearance of 22 feet above mean high water in the closed position, and a horizontal clearance of 150 feet. The normal operating schedule for the bridge is set forth in 33 CFR 117.305(b), which states that the draws of the S.W. First Street Bridge, mile 0.9, up to and including the N.W. 27th Avenue Bridge, mile 3.7 at Miami, shall open on signal; except that, from 7:35 a.m. to 8:59 a.m. and 4:45 p.m. to 5:59 p.m., Monday through Friday, except Federal holidays, the draws need not open for the passage of vessels.

This 90 day test deviation will be in effect from 6:46 p.m. on April 4, 2012 through 7:30 p.m. on July 3, 2012. Tugs and tugs with tows, public vessels of the United States, and vessels in distress shall be passed at any time.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This test deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 29, 2012.

#### B.L. Dragon,

*Bridge Program Director, Seventh Coast Guard District.*

[FR Doc. 2012-6982 Filed 3-22-12; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0118]

RIN 1625-AA00

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising the list of permanent safety zones established for fireworks displays at various locations within the geographic boundary of the Fifth Coast Guard District. This action is necessary to protect life and property of the maritime public from hazards posed by fireworks displays. Entry into or movement within these zones during the enforcement periods is prohibited without approval of the appropriate Captain of the Port.

**DATES:** This rule is effective April 23, 2012.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2011-0118 and available online by going to <http://www.regulations.gov>, inserting USCG-2011-0118 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Dennis Sens, Fifth Coast Guard District, Prevention Division; telephone 757-398-6204, email

[Dennis.M.Sens@uscg.mil](mailto:Dennis.M.Sens@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On October 26, 2011, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zones; Fireworks Displays within the Fifth Coast Guard District" in the **Federal Register** (76 FR 66239). We received no comments on the proposed rule.

#### Basis and Purpose

The purpose of this final rule is to ensure the safety of life on navigable waters during fireworks events and provide the marine community the opportunity to comment on safety zone locations, size, and length of time the zones will be active.

#### Background

In this final rule the Coast Guard revises 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 73 permanent safety zones that are established for annually recurring fireworks displays within the geographic boundaries of the Fifth Coast Guard District.

The Coast Guard is revising the list of permanent safety zones at 33 CFR 165.506, established for fireworks displays, by adding 3 new locations, deleting 2 previously established locations and modifying 19 previously established locations within the geographic boundary of the Fifth Coast Guard District. This rule increases the total number of permanent safety zones to 74 locations for fireworks displays within the boundary of the Fifth Coast Guard District.

This rule adds 3 new safety zone locations to the permanent safety zones listed in 33 CFR 165.506. The new safety zones include locations at: North Atlantic Ocean, Atlantic City, NJ; Great Wicomico River, Mila, VA; and Cockrell's Creek, Reedville, VA.

The 19 previously established safety zone locations that are modified by this rule are: Severn River and Spa Creek, Annapolis, MD; Baltimore Inner Harbor, Patapsco River, MD, (2 locations); Patuxent River, Calvert County, MD; Chesapeake Bay, Chesapeake Beach, MD; Potomac River, Charles County, MD; Potomac River, Charles County, MD near Mount Vernon; Potomac River, National Harbor, MD; Miles River, St. Michaels, MD; Tred Avon River, Oxford, MD; Upper Potomac River, Alexandria, VA; Anacostia River, Washington, DC; Potomac River, Prince William County, VA; North Atlantic Ocean, Ocean City, NJ; Chesapeake Bay, Norfolk, VA; North Atlantic Ocean, Virginia Beach, VA (2 locations); Pamlico River, Washington, NC; and Motts Channel, Banks Channel, Wrightsville Beach, NC. Safety zone modifications include revision to dates and minor changes to coordinates that define safety zone boundaries.

The Coast Guard is disestablishing 2 safety zones located at Patuxent River, Solomons Island, Calvert County, MD, centered at approximate position latitude 38°19'03" N, longitude 076°26'07.6" W and Patuxent River, Solomons Island, MD, centered at approximate position latitude 38°19'21" N, longitude 076°27'55" W. All coordinates for these safety zones reference Datum NAD 1983.

The Coast Guard typically receives numerous applications for fireworks displays in these general areas.

Previously, a temporary safety zone was established on an emergency basis for each display. This limited the opportunity for public comment. Establishing permanent safety zones through notice and comment rulemaking provides the public the opportunity to comment on the safety 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 may allow boaters within the safety zone if conditions permit.

The Coast Guard will 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 will give notice of the enforcement of each safety zone by all appropriate means to provide the widest dissemination of notice among the affected segments of the public. This will 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. Fireworks barges or launch sites on land used in the locations stated in this rulemaking shall also display a sign labeled "FIREWORKS—DANGER—STAY AWAY" \* \* \* The sign will be affixed to the port and starboard side of the barge or mounted on a post 3 feet above ground level when on land and in close proximity to the shoreline facing the water. This sign provides on scene notice that the safety zone is or will be enforced on that day. The sign will be diamond shaped, 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 will 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 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.

#### Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register** (76 FR 66239). Accordingly, the Coast Guard is establishing 74 safety zones on the specified navigable waters listed within the Table to § 165.506.

#### Regulatory Analyses

We developed this 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 rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant because of the short amount of time that vessels will be restricted from the zones, and the small zone sizes positioned in low vessel traffic areas. Vessels will not be precluded from getting underway, or mooring at any piers or marinas currently located in the vicinity of the safety zones. Advance notifications will 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.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this 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 rule will 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 safety zones during the times these zones are enforced.

These 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 can 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.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### **Collection of Information**

This rule calls 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 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 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This rule will not cause 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 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 rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### **Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### **Environment**

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g.), of the Instruction. This rule involves implementation of regulations at 33 CFR Part 165 that establish safety zones on navigable waters of the United States for fireworks events. These safety zones are enforced for the duration of fireworks display events. The fireworks are launched from or immediately adjacent to navigable waters of the United States. The category of activities includes fireworks launched from barges at or near the shoreline that generally rely on the use of navigable waters as a safety buffer.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

#### **ADDRESSES.**

**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 amends 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. 3306, 3703, and Chapter 701; 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 enforced 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 enforcement 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 feet by 4 feet 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, Wilmington, North Carolina: (877) 229–0770 or (910) 772–2200.

(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 barge 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	North 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.

TABLE TO § 165.506—Continued

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

Number	Date	Location	Regulated area
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—1st Friday	North Atlantic Ocean, Atlantic City, NJ, Safety Zone.	The waters of the North Atlantic Ocean within a 500 yard radius of the fireworks barge located at latitude 39°20'58" N, longitude 074°25'58" W, near the shoreline at Atlantic City, NJ.
11	July 4th, October—1st Saturday.	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.
12	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.
13	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.
14	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 yard radius of the fireworks barge located in approximate position latitude 39°49'43.2" N, longitude 075°22'42" W.
15	September—3rd Saturday.	Delaware River, Essington, PA, Safety Zone.	All waters of the Delaware River near Essington, PA, west of Little Tinicum Island within a 250 yard radius of the fireworks barge located in the approximate position latitude 39°51'18" N, longitude 075°18'57" W.
16	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.) Coast Guard Sector Baltimore—COTP Zone**

1	April—1st or 2nd 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.
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°58'40" N, longitude 076°28'49" W; thence to latitude 38°58'26" N, longitude 076°28'28" W; thence to latitude 38°58'45" N, longitude 076°28'07" 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—2nd or 3rd Thursday or Friday, July 4th, December 31st.	Baltimore Inner Harbor, Patapsco River, MD, Safety Zone.	All waters of the Patapsco River within a 100 yard radius of the fireworks barge in approximate position latitude 39°17'01" N, longitude 076°36'31" W, located at the entrance to Baltimore Inner Harbor, approximately 125 yards southwest of pier 3.
7	May—2nd or 3rd Thursday or 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°17'04" N, longitude 076°36'36" W, located in Baltimore Inner Harbor, approximately 125 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.

TABLE TO § 165.506—Continued

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

Number	Date	Location	Regulated area
9	July 4th	Patuxent River, Calvert County, MD, Safety Zone.	All waters of the Patuxent River within a 200 yard radius of the fireworks barge located at latitude 38°19'17" N, longitude 076°27'45" W, approximately 800 feet from shore at Solomons Island, MD.
10	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.
11	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°41'36" N, longitude 076°31'30" W, and within a 150 yard radius of the fireworks barge in approximate position latitude 38°41'28" N, longitude 076°31'29" W, located near Chesapeake Beach, Maryland.
12	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.
13	July—2nd or 3rd Saturday 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°20'05" N, longitude 077°15'00" W, approximately 500 yards north of the shoreline at Fairview Beach, Virginia.
14	May—last Saturday. July 4th.	Potomac River, Charles County, MD—Mount Vernon, Safety Zone.	All waters of the Potomac River within an area bound by a line drawn from the following points: latitude 38°42'30" N, longitude 077°04'47" W; thence to latitude 38°42'18" N, longitude 077°04'42" W; thence to latitude 38°42'11" N, longitude 077°05'10" W; thence to latitude 38°42'22" N, longitude 077°05'12" W; located at the Mount Vernon Estate, in Fairfax County, Virginia.
15	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°13'27" N, longitude 076°44'48" W, located adjacent to Dukeharts Channel near Coltons Point, Maryland.
16	July—Day before Independence Day holiday. November—3rd Thursday, 3rd Saturday and last Friday. December—1st, 2nd and 3rd 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°47'13" N, longitude 077°00'58" W; thence to latitude 38°46'51" N, longitude 077°01'15" 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.
17	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.
18	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 approximate position latitude 38°47'42" N, longitude 076°12'51" W, located at the entrance to Long Haul Creek.
19	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°41'24" N, longitude 076°10'37" W, approximately 500 yards northwest of the waterfront at Oxford, MD.
20	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.
21	June—2nd or 3rd Saturday. July—1st, 2nd or 3rd 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.
22	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 barge in approximate position latitude 38°52'13" N, longitude 077°00'16" W, located near the Washington Nationals Ball Park.
23	June—last Saturday. July—3rd, 4th or last Saturday or Sunday.	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°34'07" N, longitude 077°15'32" W, located near Cherry Hill, Virginia.

TABLE TO § 165.506—Continued

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

Number	Date	Location	Regulated area
<b>(c.) Coast Guard Sector Hampton Roads—COTP Zone</b>			
1	July 4th	North 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 safety 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, and June 29th, 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.
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, July—1st Friday, July 4th.	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 center span of the State Route 15 Highway Bridge.
15	May, June, July, August, September, October—every Wednesday, Friday, Saturday and Sunday, July 4th.	North 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—last Saturday or October—1st Saturday.	North 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.

TABLE TO § 165.506—Continued

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

Number	Date	Location	Regulated area
17 .....	Friday, Saturday, Sunday and Monday—Labor Day Weekend.	North 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.
21 .....	July—3rd, 4th and 5th ....	Great Wicomico River, Mila, VA, Safety Zone.	All waters of the Great Wicomico River located within a 420 foot radius of the fireworks display at approximate position latitude 37°50'31" N, longitude 076°19'42" W near Mila, Virginia.
22 .....	July—1st Friday, Saturday and Sunday.	Cockrell's Creek, Reedville, VA, Safety Zone.	All waters of Cockrell's Creek located within a 420 foot radius of the fireworks display at approximate position latitude 37°49'54" N, longitude 076°16'44" W near Reedville, Virginia.

**(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.
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 east 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°32'27" N, longitude 077°03'40.5" 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 south of the entrance to Queen Anne Creek, Edenton, NC.
10 .....	July 4th, November—Saturday following Thanksgiving.	Motts Channel, Banks Channel, Wrightsville Beach, NC, Safety Zone.	All waters of Motts Channel within a 500 yard radius of the fireworks launch site 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.

TABLE TO § 165.506—Continued

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

Number	Date	Location	Regulated area
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: March 1, 2012.

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

[FR Doc. 2012-6781 Filed 3-22-12; 8:45 am]

BILLING CODE 9110-04-P

**ENVIRONMENTAL PROTECTION  
AGENCY****40 CFR Part 52**

[EPA-R03-OAR-2011-0092; FRL-9651-7]

**Approval and Promulgation of Air  
Quality Implementation Plans; West  
Virginia; Regional Haze State  
Implementation Plan****AGENCY:** Environmental Protection  
Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing the limited approval and limited disapproval of West Virginia's Regional Haze State Implementation Plan (SIP) revision. EPA is taking this action because West Virginia's SIP revision, as a whole, strengthens the West Virginia SIP. We are finalizing our limited disapproval of the same SIP revision arising from the remand by the U.S. Court of Appeals for the District of Columbia (DC Circuit) to EPA of the Clean Air Interstate Rule (CAIR). This action is being taken in accordance with the requirements of the Clean Air Act (CAA) and EPA's rules for states to prevent and remedy future and existing anthropogenic impairment of visibility in mandatory Class I areas through a regional haze program. EPA is also approving this revision as meeting the infrastructure requirements relating to visibility protection for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) and the 1997 and 2006 fine particulate matter (PM<sub>2.5</sub>) NAAQS.

**DATES:** *Effective Date:* This final rule is effective on April 23, 2012.**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2011-0092. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the electronic docket,

some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, West Virginia 25304.

**FOR FURTHER INFORMATION CONTACT:**  
Melissa Linden, (215) 814-2096, or by  
email at *linden.melissa@epa.gov*.**SUPPLEMENTARY INFORMATION:****I. Background**

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. On July 13, 2011 (76 FR 41158), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of West Virginia. The NPR proposed limited approval and limited disapproval of West Virginia's Regional Haze SIP. The formal SIP revision was submitted by West Virginia Department of Environmental Protection (WVDEP) on June 18, 2008. This revision also meets the requirements of 110(a)(2)(D)(i)(II) and 110(a)(2)(I), relating to visibility protection for the 1997 8-hour ozone NAAQS and the 1997 and 2006 PM<sub>2.5</sub> NAAQS.

**II. Summary of SIP Revision**

The SIP revision includes a long term strategy with enforceable measures ensuring reasonable progress towards meeting the reasonable progress goals for the first planning period, through 2018. West Virginia's Regional Haze Plan contains the emission reductions needed to achieve West Virginia's share of emission reductions and sets the reasonable progress goals for other states

to achieve reasonable progress at the two Class I Areas within West Virginia, Dolly Sods Wilderness Area and Otter Creek Wilderness Area. The specific requirements of the CAA and EPA's Regional Haze Rule and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. EPA received two adverse comments on the July 13, 2011 NPR. Both comments raise similar concerns with the NPR and have been combined. A summary of the comments submitted and EPA's responses are provided in section III of this document.

**III. Summary of Public Comments and  
EPA Responses**

*Comment:* The commenter argues that EPA's proposed limited approval/limited disapproval action based on West Virginia's reliance on CAIR is unwarranted and should be withdrawn. Instead, the commenter states that EPA should grant full and unconditional approval of the West Virginia regional haze SIP. The commenter disagrees that CAIR renders the State's SIP unable to satisfy all of the CAA's regional haze SIP requirements. The commenter notes that West Virginia's SIP was submitted prior to the remand of CAIR and relied on the requirements under 40 CFR 51.308(e)(4), which remain in effect at this time. The commenter argues that as a result, the West Virginia SIP is entirely consistent with the applicable law. Moreover, the commenter highlights that the visibility-improvement benefits from CAIR's emission reductions are likely to be replicated, or indeed exceeded, by the visibility benefits projected to result from the Cross State Air Pollution Rule. The commenter argues that EPA does not have a basis to propose or promulgate disapproval or limited disapproval of a Regional Haze SIP due to its reliance on CAIR and on 40 CFR 51.308(e)(4), because EPA has not determined, based on a thorough and defensible analysis, that the emission reductions and associated visibility-improvement benefits that are likely to result from the final CSAPR will not be at least comparable to those achieved under CAIR. Because the SIP is fully compliant with the relevant