

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100****[Docket No. USCG–2011–0545]****RIN 1625–AA08****Special Local Regulation for Marine Events; Temporary Change of Dates for Recurring Marine Events in the Fifth Coast Guard District, John H. Kerr Reservoir, Clarksville VA****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to temporarily change the enforcement period of special local regulations for one recurring marine event in the Fifth Coast Guard District, specifically, the “Clarksville Hydroplane Challenge,” hydroplane races on the waters of the John H. Kerr Reservoir. Because this event will consist of approximately 80 hydroplane powerboats conducting high-speed competitive races in heats counter-clockwise around an oval racecourse on the water of the John H. Kerr Reservoir, this regulation is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the John H. Kerr Reservoir in Clarksville, Virginia during the event.

**DATES:** Comments and related material must be received by the Coast Guard on or before July 27, 2011.

**ADDRESSES:** You may submit comments identified by docket number USCG–2011–0545 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 four methods. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed

rule, call or e-mail. If you have questions on this temporary rule, call or e-mail LCDR Christopher O’Neal, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone 757–668–5581, e-mail [Christopher.A.ONeal@uscg.mil](mailto:Christopher.A.ONeal@uscg.mil). 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–2011–0545), 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 (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone 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>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rule” and insert “USCG–2011–0545” in the “Keyword” box. Click “Search” 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 comments 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–2011–0545” 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 you believe a public meeting 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**.

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact LCDR Christopher O’Neal at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

**Basis and Purpose**

Marine events are frequently held on the navigable waters within the boundary of Fifth Coast Guard District. The water activities that typically comprise marine events include sailing regattas, power boat races, swim races and holiday parades. For a description of the geographical area of each Coast

Guard Sector—Captain of the Port Zone, please see 33 CFR 3.25.

This regulation proposes to temporarily change the enforcement period of special local regulations for one recurring marine event within Fifth Coast Guard District. This proposed regulation applies to one marine event in 33 CFR 100.501, Table to § 100.501.

On September 24 and 25, 2011, the Cambridge Power Boat Racing Association will sponsor the “Clarksville Hydroplane Challenge” hydroplane races on the waters of the John H. Kerr Reservoir. The regulation at 33 CFR 100.501 is effective annually for this hydroplane boat race marine event. The event will consist of approximately 80 hydroplane powerboats conducting high-speed competitive races in heats counter-clockwise around an oval racecourse on the water of the John H. Kerr Reservoir adjacent to Oconeechee State Park, Clarksville, Virginia and State Route 15 Highway Bridge. A fleet of spectator vessels is expected to gather near the event site to view the competition. To provide for the safety of participants, spectators, support and transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the hydroplane races. The regulation at 33 CFR 100.501 would be enforced for the duration of the event. Under the provisions of 33 CFR 100.501, from 9 a.m. to 6 p.m. on September 24 and 25, 2011, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

#### Discussion of Proposed Rule

The Coast Guard is establishing a temporary special local regulation on specified waters of John H. Kerr Reservoir, in Clarksville, Virginia. The regulated area will be established in the interest of public safety during the “Clarksville Hydroplane Challenge”, and will be enforced from 9 a.m. to 6 p.m. on September 24 and 25, 2011. The Coast Guard, at its discretion, when practical will allow the passage of vessels when races are not taking place. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

#### 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 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 that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that those Orders.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this rule prevents traffic from transiting a portion of certain waterways during specified times, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, this rulemaking does not change the permanent regulated areas that have been published in 33 CFR 100.501, Table to § 100.501. In some cases vessel traffic may be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so.

#### 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 proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit this section of the John H. Kerr Reservoir during the event.

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. This regulation will not have a significant impact on a substantial number of small entities because: (i) It will be enforced only for a short period of time on two consecutive days; (ii) vessels may be granted the opportunity to transit the safety zone during the period of enforcement if the Patrol Commander deems it safe to do so; (iii) vessels may transit around the safety zone; and (iv) before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

#### 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 LCDR Christopher O’Neal. 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 (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.

#### *Taking of Private Property*

This proposed rule would 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 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 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 made a preliminary determination that this action is one of a category of actions which do not individually or

cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing. 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 100**

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

#### **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

2. In § 100.501, suspend line No. 47 in the Table to § 100.501.

3. In § 100.501, on September 24 and 25, 2011, add line No. 62 in Table to § 100.501; to be enforced from 9 a.m. to 6 p.m. on September 24, 2011 and from 9 a.m. to 6 p.m. on September 25, 2011, to read as follows:

#### **§ 100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.**

\* \* \* \* \*

**TABLE TO § 100.501—ALL COORDINATES LISTED IN THE TABLE TO § 100.501 REFERENCE DATUM NAD 1983**

Number	Date	Event	Sponsor	Location
*	*	*	*	*
<b>Coast Guard Sector Hampton Roads—COTP Zone</b>				
62 .....	September 24 and 25, 2011.	Clarksville Hydroplane Challenge.	Cambridge Power Boat Racing Assoc.	The waters of the John H. Kerr Reservoir, adjacent to the State Route 15 Highway Bridge and Oconeechee State Park, Clarksville, Virginia, from shoreline to shoreline, bounded on the south by a line running northeasterly from a point along the shoreline at latitude 36°37'14" N, longitude 078°32'46.5" W, thence to latitude 36°37'39.2" N, longitude 078°32'08.8" W, and bounded on the north by the State Route 15 Highway Bridge.

\* \* \* \* \*

Dated: June 16, 2011.

**Mark S. Ogle,***Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.*

[FR Doc. 2011-15971 Filed 6-24-11; 8:45 am]

BILLING CODE 9110-04-P

**DEPARTMENT OF COMMERCE****United States Patent and Trademark Office****37 CFR Parts 1 and 41**

[PTO-C-2010-0019]

RIN 0651-AC44

**Revision of Patent Fees for Fiscal Year 2012****AGENCY:** United States Patent and Trademark Office, Commerce.**ACTION:** Proposed rule.

**SUMMARY:** The United States Patent and Trademark Office (Office) is proposing to adjust certain patent fee amounts for fiscal year 2012 to reflect fluctuations in the Consumer Price Index (CPI). The patent statute provides for the annual CPI adjustment of patent fees set by statute to recover the higher costs associated with doing business.

**DATES:** Written comments must be received on or before July 27, 2011. No public hearing will be held.

**ADDRESSES:** You may submit comments, identified by RIN number RIN 0651-AC44, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *E-mail:*

*Walter.Schlueter@uspto.gov*. Include RIN number RIN 0651-AC44 in the subject line of the message.

- *Fax:* (571) 273-6299, marked to the attention of Walter Schlueter.

- *Mail:* Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Walter Schlueter.

**Instructions:** All submissions received must include the agency name and Regulatory Information Number (RIN) for this proposed rule making. For additional information on the rule making process, see the heading of the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Walter Schlueter by e-mail at *Walter.Schlueter@uspto.gov*, by telephone at (571) 272-6299, or by fax at (571) 273-6299.

**SUPPLEMENTARY INFORMATION:** The USPTO is proposing to adjust certain patent fees in accordance with the applicable provisions of title 35, United States Code, as amended by the Consolidated Appropriations Act (Pub. L. 108-447, 118 Stat. 2809 (2004)).

**Background: Statutory Provisions:** Patent fees are set by or under the authority provided in 35 U.S.C. 41, 119, 120, 132(b), 156, 157(a), 255, 302, 311, 376, section 532(a)(2) of the Uruguay Round Agreements Act (URAA) (Pub. L. 103-465, § 532(a)(2), 108 Stat. 4809, 4985 (1994)), and section 4506 of the American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113, 113 Stat. 1501, 1501A-565 (1999)). For fees paid under 35 U.S.C. 41(a) and (b) and 132(b), independent inventors, small business concerns, and nonprofit organizations who meet the requirements of 35 U.S.C. 41(h)(1) are entitled to a fifty-percent reduction.

Section 41(f) of title 35, United States Code, provides that fees established under 35 U.S.C. 41(a) and (b) may be adjusted on October 1, 1992, and every year thereafter, to reflect fluctuations in the CPI over the previous twelve months.

Section 41(g) of title 35, United States Code, provides that new fee amounts established by the Director under 35 U.S.C. 41 may take effect thirty days after notice in the **Federal Register** and the *Official Gazette of the United States Patent and Trademark Office*.

The fiscal year 2005 Consolidated Appropriations Act (section 801 of Division B) provided that 35 U.S.C. 41(a), (b), and (d) shall be administered in a manner that revises patent application fees (35 U.S.C. 41(a)) and patent maintenance fees (35 U.S.C. 41(b)), and provides for a separate filing fee (35 U.S.C. 41(a)), search fee (35 U.S.C. 41(d)(1)), and examination fee (35 U.S.C. 41(a)(3)) during fiscal years 2005 and 2006. *See* Pub. L. 108-447, 118 Stat. 2809, 2924-30 (2004). The patent and trademark fee provisions of the fiscal year 2005 Consolidated Appropriations Act have been extended through September 30, 2011, via the Omnibus Appropriations Act, 2009. *See* Pub. L. 112-4, 125 Stat. 6 (2011); Pub. L. 111-322, 124 Stat. 3518 (2010); Pub. L. 111-317, 124 Stat. 3454 (2010); Pub. L. 111-290, 124 Stat. 3063 (2010); Pub. L. 111-242, 124 Stat. 2607 (2010); Pub. L. 111-224, 124 Stat. 2385 (2010); Pub. L. 111-117, 123 Stat. 3034 (2009); Pub. L. 111-8, 123 Stat. 524 (2009); Pub. L. 111-6, 123 Stat. 522 (2009); Pub. L. 111-5, 123 Stat. 115 (2009); Pub. L. 110-329, 122 Stat. 3574 (2008); Pub. L. 110-161, 121 Stat. 1844 (2007); Pub. L. 110-149, 121 Stat. 1819 (2007); Pub. L.

110-137, 121 Stat. 1454 (2007); Pub. L. 110-116, 121 Stat. 1295 (2007); Pub. L. 110-92, 121 Stat. 989 (2007); Pub. L. 110-5, 121 Stat. 8 (2007); Pub. L. 109-383, 120 Stat. 2678 (2006); Pub. L. 109-369, 120 Stat. 2642 (2006); and Pub. L. 109-289, 120 Stat. 1257 (2006). The USPTO anticipates the enactment of legislation that would extend the patent and trademark fee provisions of the fiscal year 2005 Consolidated Appropriations Act through fiscal year 2012.

**Fee Adjustment Level:** The patent statutory fees established by 35 U.S.C. 41(a) and (b) are proposed to be adjusted to reflect the most recent fluctuations occurring during the twelve-month period prior to publication of the final rule, as measured by the *Consumer Price Index for All Urban Consumers* (CPI-U). The Office of Management and Budget (OMB) has advised that in calculating these fluctuations, the USPTO should use CPI-U data as determined by the Secretary of Labor.

In accordance with previous fee-setting methodology, the USPTO proposes to adjust patent statutory fee amounts based on the most recent annual increase in the CPI-U, as reported by the Secretary of Labor, at the time the final rule is implemented. Proposed adjusted fee amounts are not included in this proposed rule in order to avoid confusion that could arise from using projected increases in the proposed rule that may not end up matching actual increases at the time of the final rule. Annual increases to the CPI-U are published monthly, and before the final fee amounts are published, the fee amounts may be adjusted based on actual fluctuations in the CPI-U. Adjusted patent statutory fee amounts based on the most recent annual increase in the CPI-U, as reported by the Secretary of Labor, will be published in a final rules notice.

The fee amounts will be rounded by applying standard arithmetic rules so that the amounts rounded will be convenient to the user. Fees for other than a small entity of \$100 or more will be rounded to the nearest \$10. Fees of less than \$100 will be rounded to an even number so that any comparable small entity fee will be a whole number.

**General Procedures:** Any fee amount that is paid on or after the effective date of the proposed fee adjustment would be subject to the new fees then in effect. The amount of the fee to be paid will be determined by the time of filing. The time of filing will be determined either according to the date of receipt in the Office (37 CFR 1.6) or the date reflected on a proper Certificate of Mailing or