

Some have stated that they are reluctant to charge back their customers' accounts on the basis of notices of nonpayment but prefer to wait for the return of the original check. Under this option, the return of a notice in lieu of an original check could become more prevalent, and the depository bank would have to charge back based on that notice, as the original check might never be returned. Notices in the form of an electronically-produced check image, however, may be more reliable than other types of notices that describe the check, depending on the quality of the image. This option could also have consequences for the depositors or payees of the checks as discussed above under option one.

#### **Amendment Regarding Electronic Check Presentment Agreements**

The Board is also proposing to delete § 229.36(c) of Regulation CC and its associated Commentary, which states that a bank may present a check electronically under an agreement with the paying bank and that the agreement may not extend return times or otherwise vary the provisions of Regulation CC with respect to persons not party to the agreement. This provision of the regulation is subsumed by the variation-by-agreement provisions in § 229.37, and the Board believes it is unnecessary and potentially confusing to retain special provisions regarding a particular type of variation by agreement. The Board proposes to add an example to the Commentary to § 229.37 listing an electronic check presentment agreement as a permissible variation by agreement under Regulation CC. Eliminating § 229.36(c) and its Commentary would result in no substantive change to the regulation regarding the validity of electronic presentment agreements.

#### **Initial Regulatory Flexibility Analysis**

The Regulatory Flexibility Act (5 U.S.C. 603) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis, a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the supplementary material above. The proposed rules require no additional reporting, recordkeeping, or other compliance requirements and do not overlap with other federal rules. The proposed rule would apply to all depository institutions and other entities who participate in the check collection system, regardless of size. The Board

believes that the proposed rule could result in depository banks (of all sizes) being required to accept more notices in lieu of returned original checks and has requested comment on the burdens associated with that aspect of the proposal. The Board believes, however, that it would not be feasible to create different check return rules for large and small banks, and therefore no alternatives for small banks were considered.

#### **List of Subjects in 12 CFR Part 229**

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 12 CFR Part 229 is proposed to be amended as set forth below:

#### **PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)**

1. The authority citation for part 229 continues to read as follows:

**Authority:** 12 U.S.C. 4001 *et seq.*

2. In § 229.36, paragraph (c) is removed and reserved.

#### **Option one**

3a. In Appendix E, under section XVI, paragraph F.2. is revised to read as follows:

#### **Appendix E to Part 229—Commentary**

\* \* \* \* \*

#### **XVI. Section 229.30 Paying Bank's Responsibility for Return of Checks**

\* \* \* \* \*

F. \* \* \*

2. Sending a notice in lieu of return in accordance with this section satisfies the requirements of U.C.C. 4-301(a) to send a notice of dishonor or nonpayment. A paying bank could also send a notice in accordance with U.C.C. 4-301(a) (which requires returned checks and return notices to flow back through the forward collection chain) if it did not wish to avail itself of the provisions of this section, provided that the notice met the expeditious return requirements of this section. Reference in the regulation and this commentary to a returned check includes a notice in lieu of return under this section or a notice of dishonor or nonpayment under U.C.C. 4-301(a) unless the context indicates otherwise.

\* \* \* \* \*

#### **End of Option one**

#### **Option two**

3b. In Appendix E to part 229, under section XVI, paragraph F. 1. is amended by removing the fifth and sixth sentences and by adding a new sentence after the fourth sentence to read as follows:

#### **XVI. Section 229.30 Paying Bank's Responsibility for Return of Checks**

\* \* \* \* \*

F. \* \* \*

1. \* \* \* This paragraph adopts the standards of U.C.C. 4-301(a) as to when a check is unavailable for return. \* \* \*

\* \* \* \* \*

3c. In Appendix E, under section XVII, the second and third sentences of paragraph F.1. are removed.

#### **End of Option Two**

4. In Appendix E, under section XXII, paragraph C. is removed and reserved.

5. In Appendix E, under section XXIII, a new paragraph C.9. is added to read as follows:

#### **XXIII. Section 229.37 Variations by Agreement**

\* \* \* \* \*

C. \* \* \*

9. A presenting bank and a paying bank may agree that presentment takes place when the paying bank receives an electronic transmission of information describing the check rather than upon delivery of the physical check. (See § 229.36(b).)

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, February 19, 1999.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 99-4600 Filed 2-23-99; 8:45 am]

BILLING CODE 6210-01-P

## **DEPARTMENT OF TRANSPORTATION**

### **Coast Guard**

### **33 CFR Part 165**

[CGD01-98-170]

RIN 2121-AA97

### **Safety Zone: Port of New York/New Jersey Fleet Week**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of Proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish five safety zones in New York Harbor's Upper Bay and the Hudson River that will be activated annually for the Fleet Week Parade of Ships, for Air and Sea demonstrations, and for the arrival or departure of the participating U.S. Navy Aircraft or Helicopter Carrier. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic on a portion of New York Harbor's Upper Bay and the Hudson River.

**DATES:** Comments must be received on or before April 26, 1999.

**ADDRESSES:** Comments may be mailed to the Waterways Oversight Branch (CGD01-98-170), Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, or delivered to room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 205, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4193.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01-98-170) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, on larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Waterways Oversight Branch at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The Intrepid Sea, Air and Space Museum, Manhattan, NY, sponsors the annual Fleet Week Parade of Ships, as well as associated Sea and Air demonstrations. These events take place annually from the Wednesday before

Memorial Day to the Wednesday following Memorial Day on the waters of New York Harbor's Upper Bay and the Hudson River. The Coast Guard expects no more than 500 spectator craft for these events.

**Parade of Ships**

The Coast Guard proposes to establish three safety zones for the actual parade of ships on the Wednesday before Memorial Day. The first proposed zone is a moving safety zone for the Parade of Ships to include all waters 500 yards ahead and astern, and 200 yards on each side of the designed column of parade vessels as the column transits the Port of New York and New Jersey from the Verrazano Narrows Bridge to Riverside State Park on the Hudson River between West 137th and West 144th Streets, Manhattan.

The second zone established for the parade of ships expands from the column of parade vessels east to the Manhattan shoreline between Piers 84 and 90. This expansion gives the public an unobstructed view of the parade of ships from the pierside reviewing stand.

The third zone activates as each vessel leaves the parade of ships and proceeds to its berthing area. The moving safety zone will expand to include all waters within a 200-yard radius of each vessel until it is safely berthed.

These three safety zones are effective annually from 8 a.m. until 5 p.m. on the Wednesday before Memorial Day. They are needed to protect the maritime public from possible hazards to navigation associated with a parade of naval vessels transiting the waters of New York Harbor and the Hudson River in close proximity. These vessels have limited maneuverability and require a clear traffic lane to safely navigate.

**Air and Sea Demonstration**

The Coast Guard also proposes to establish a safety zone for the Fleet Week Sea and Air demonstrations held on and over the Hudson River between Piers 83 and 90. This proposed safety zone includes all waters of the Hudson River bound by the following points: from the southeast corner of Pier 90, Manhattan, where it intersects the seawall, west to approximate position 40°46'10"N 074°00'13"W (NAD 1983), south to approximate position 40°45'54"N 074°00'25"W (NAD 1983), then east to the northeast corner of Pier 83 where it intersects the seawall. This safety zone is effective annually from 10 a.m. until 5 p.m., Friday through Monday, Memorial Day weekend. It is needed to protect boaters and demonstration participants from the

hazards associated with military personnel demonstrating the capabilities of aircraft and watercraft in a confined area of the Hudson River. This safety zone prevents vessels from transiting only a portion of the Hudson River. Marine traffic will still be able to transit through the western 600 yards of the 950-yard-wide Hudson River during the Sea and Air demonstrations. Vessels moored at piers within the safety zone, however, will not be allowed to transit from their moorings without permission from the Captain of the Port, New York, during the effective periods of the safety zone. The Captain of the Port does not anticipate any negative impact on recreational or commercial vessel traffic due to this safety zone.

**U.S. Navy Vessel Departure**

Finally, the Coast Guard proposes to establish a moving safety zone for the departure of the participating U.S. Navy Aircraft or Helicopter carrier in this annual event. This proposed safety zone includes all waters 500 yards ahead and astern, and 200 yards on each side of the vessel as it transits the Port of New York and New Jersey from its mooring at the Intrepid Sea, Air and Space Museum, Manhattan, to the COLREGS Demarcation line at Ambrose Channel Entrance Lighted Bell Buoy 2 (LLNR 34805). The proposed regulation is effective annually, on the Wednesday following Memorial Day. Departure time is dependent on tide, weather, and granting of authority for departure by the Captain of the Port, New York. The proposed safety zone is needed to protect the maritime public from possible hazards to navigation associated with a large naval vessel transiting the Port of New York and New Jersey with limited maneuverability in restricted waters. It provides a clear traffic lane for the U.S. Navy ship to safely navigate from its berth. The specific ship which this moving safety zone applies to will be published in the Local Notice to Mariners and broadcast via marine information broadcasts and facsimile before the start of Fleet Week events.

**Discussion of Proposed Rule**

The new safety zones are being proposed to provide for the safety of life on navigable waters during the event, to give the marine community the opportunity to comment on the exclusion areas, and to decrease the amount of annual paperwork required for this event.

**Regulatory Evaluation**

This proposed rule is not a significant regulatory action under section 3(f) of

Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Although this regulation prevents traffic from transiting a portion of New York Harbor's Upper Bay and the Hudson River during the event, the effect of this regulation will not be significant for the following reasons: the regulations will be in effect for barely a week a year; the maritime community will receive extensive advance notice through Local Notices to Mariners, facsimile, and marine information broadcasts; Fleet Week is an annual event with local support; at no time will any of the affected waterways be entirely closed to marine traffic; alternative routes are available for commercial and recreational vessels that can safely navigate the Harlem and East Rivers, Kill Van Kull, Arthur Kill, and Buttermilk Channel; and similar safety zones have been established for several past Fleet Week parades and Sea and Air demonstrations with minimal or no disruption to vessel traffic or other interests in the port. These safety zones have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

#### Small Entities

Under the regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include 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.

For the reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your

business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

#### Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

#### Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of \$100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that, from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. No state, local, or tribal government entities will be affected by this rule, so this rule will not result in annual or aggregate costs of \$100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

#### Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

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

#### Proposed Regulation

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

#### PART 165—[AMENDED]

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

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. Add § 165.163 to read as follows:

#### § 165.163 Safety Zones; Port of New York/ New Jersey Fleet Week.

(a) The following areas are established as safety zones:

(1) Safety Zone A:

(i) *Location.* A moving safety zone for the Parade of Ships including all waters 500 yards ahead and astern, and 200 yards on each side of the designated column of parade vessels at it transits the Port of New York and New Jersey from the Verrazano Narrows Bridge to Riverside State Park on the Hudson River between West 137th and West 144th Streets, Manhattan.

(ii) *Enforcement period.* Paragraph

(a)(1)(i) of this section is enforced annually from 8 a.m. until 5 p.m. on the Wednesday before Memorial Day.

(2) Safety Zone B:

(i) *Location.* A safety zone including all waters of the Hudson River between Piers 84 and 90, Manhattan, from the parade column east to the Manhattan shoreline.

(ii) *Enforcement period.* Paragraph

(a)(2)(i) of this section enforced annually from 8 a.m. until 5 p.m. on the Wednesday before Memorial Day.

(3) Safety Zone C:

(i) *Location:* A moving safety zone including all waters of the Hudson River within a 200-yard radius of each parade vessel upon its leaving the parade of ships until it is safely berthed.

(ii) *Enforcement period.* Paragraph

(a)(3)(i) of this section enforced annually from 8 a.m. until 5 p.m. on the Wednesday before Memorial Day.

(4) Safety Zone D:

(i) *Location.* A safety zone including all waters of the Hudson River bound by the following points: from the southeast corner of Pier 90, Manhattan, where it intersects the seawall, west to approximate position 40°46'10" N 074°00'13" W (NAD 1983), south to approximate position 40°45'54" N 074°00'25" W (NAD 1983), then east to the northeast corner of Pier 83 where it intersects the seawall.

(ii) *Enforcement period.* Paragraph

(a)(4)(i) of this section is enforced annually from 10 a.m. until 5 p.m., from Friday through Monday, Memorial Day weekend.

(5) Safety Zone E:

(i) *Location.* A moving safety zone including all waters 500 yards ahead and astern, and 200 yards on each side

of the departing U.S. Navy aircraft or Helicopter Carrier as it transits the Port of New York and New Jersey from its mooring at the Intrepid Sea, Air and Space Museum, Manhattan, to the COLREGS Demarcation line at Ambrose Channel Entrance Lighted Bell Buoy 2 (LLNR 34805).

(ii) *Enforcement period.* Paragraph (a)(5)(i) of this section enforced annually on the Wednesday following Memorial Day. Departure time is dependent on tide, weather, and granting of authority for departure by the Captain of the Port, New York.

(b) *Effective period.* This section is effective annually from 8 a.m. on the Wednesday before Memorial Day until 4 p.m. on the Wednesday following Memorial Day.

(c) *Regulations.*

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

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. 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.

Dated: February 11, 1999.

**R.E. Bennis,**

*Captain, U.S. Coast Guard, Captain of the Port, New York.*

[FR Doc. 99-4590 Filed 2-23-99; 8:45 am]

BILLING CODE 4910-15-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-6303-9]

### Massachusetts: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to grant final authorization to the Commonwealth of Massachusetts for revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Massachusetts' program revisions address two rules promulgated by the Environmental Protection Agency: the Toxicity Characteristics (TC) Rule of March 29, 1990 (55 FR 11748) which was promulgated under the authority of

the Hazardous and Solid Waste Amendments (HSWA) to RCRA and subsequent revisions to that rule which are contained in HSWA Cluster II, RCRA Cluster I and RCRA Cluster III; and the Universal Waste Rule (UWR) of May 11, 1995 (60 FR 25492) which is contained in RCRA Cluster V. The EPA has reviewed The Commonwealth of Massachusetts' application and has made a decision, subject to public review and comment. The Agency finds that the State's hazardous waste program revisions, except for a provision which relates to the Toxicity Rule and exempts intact Cathode Ray Tubes (CRTs) from hazardous waste regulation, satisfy all of the requirements necessary to qualify for final authorization. Thus, the EPA is proposing to approve the authorization of Massachusetts for the TC Rule for all wastes other than CRTs, and disapprove the rule as it applies to or gives the state federally delegated authority over CRTs. The EPA also is proposing to approve the authorization of Massachusetts for the UWR. The rationale and specific provisions for which EPA is recommending Massachusetts be authorized are provided in Section B of this notice. Massachusetts' application for program revision is available for public review. EPA will respond to public comments in a later final rule based upon this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time. The proposal approvals (and partial disapproval) of Massachusetts' program revisions shall become effective as specified when the Regional Administrator's final decisions are published in the **Federal Register**.

**DATES:** Written comments must be received by March 26, 1999.

**ADDRESSES:** Copies of the Commonwealth of Massachusetts' revision application and the materials which EPA used in evaluating the revision (the "Administrative Record") are available for inspection and copying during normal business hours at the following addresses: Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9:00 a.m. to 5:00 p.m., Telephone: (617) 292-5802 and EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02114-2023, business hours: 8:30 a.m. to 5:00 p.m., Telephone: (617) 918-1990. Send written comments to Robin Biscaia at the address below.

**FOR FURTHER INFORMATION CONTACT:** Robin Biscaia, EPA Region I, One Congress Street, Suite 1100 (CHW),

Boston, MA 02114-2023; Telephone: (617) 918-1642.

## SUPPLEMENTARY INFORMATION:

### A. Background

States with final authorization under Section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279.

### B. Massachusetts

The Commonwealth of Massachusetts initially received Final Authorization on January 24, 1985, effective February 7, 1985 (50 FR 3344) to implement its base hazardous waste management program. On January 8, 1998, Massachusetts submitted a final program revision application relating to the Satellite Accumulation Rule, UWR and TC Rule seeking authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Massachusetts' application, and on September 30, 1998 authorized Massachusetts to implement the Satellite Accumulation Rule as part of its hazardous waste management program, effective November 30, 1998 (63 FR 52180). In that notice, EPA noted that it was deferring a decision on the TC Rule and the UWR pending resolution of an issue. The issue relates to EPA's concerns regarding the way in which CRTs are presently regulated by Massachusetts as a result of a recent amendment to its hazardous waste regulations. Although EPA and the State have not agreed upon a mutually satisfactory regulatory approach to CRTs, the EPA is now proposing to authorize the State for the UWR and for the TC Rule except as it relates to CRTs.

The TC Rule was promulgated on March 29, 1990 (55 FR 11748) and refines and expands EPA's Extraction Procedure (EP) Toxicity Characteristics Rule promulgated on May 19, 1980 (49 FR 33084). On May 11, 1995 (60 FR 25492) EPA promulgated the UWR which contains new streamlined hazardous waste management regulations governing the collection and