deceptive in violation of Section 5 of the FTC Act in its law enforcement actions be incorporated into a proposed FTC rule? If so, what conduct should be included, how should it be addressed, and why?

B. Should conduct by loan modification and foreclosure rescue service providers or advertisers that states have declared unlawful by statute or regulation or have challenged in law enforcement actions be incorporated into a proposed FTC rule? Why or why not? If so, what prohibitions and restrictions should be incorporated in a proposed FTC rule?

1. Some states require providers to create written contracts and include key disclosures in these contracts. Should the Commission impose the same or similar disclosure requirements in a proposed FTC rule? If so, what disclosures should be included and why?

2. Some states require providers to give consumers who enroll the right to rescind or cancel their agreements with the providers. Should the Commission include the same or similar rights of rescission or cancellation in a proposed rule? If so, what rescission and cancellation rights should be included and why?

3. Some states have restricted the type, amount, and timing of the fees charged and refunds given by providers of loan modification and foreclosure rescue services. In particular, some states ban advance fees until all services promised or contracted for are completed.

(i) Should the Commission address in a proposed FTC rule any fee or refunds practices of providers of loan modification and foreclosure rescue services? If so, what practices should be addressed, how they should be addressed, and why?

(ii) Should the Commission ban the payment of advance fees for loan modification and foreclosure rescue services in a proposed FTC rule? If so, why or why not? What effect, if any, would an advance fee ban have on the willingness or ability of loan modification and foreclosure rescue services providers to do business?

(iii) Should the Commission impose fee restrictions in a proposed FTC rule other than a ban on the advance fees that providers of loan modification and foreclosure rescue services receive? If so, what restrictions should be imposed and why? Would these restrictions prevent or mitigate the potential harm caused by payment of these fees? For example, to what extent might the possible harm from advance fees be prevented or mitigated by requiring providers to make specific disclosures regarding the timing, amount, or allocation of fees? Additionally, to what extent might such harm be prevented or mitigated by requiring providers to make more general disclosures regarding the nature and material restrictions of their services (e.g., the disclosures regarding the likelihood of success, timing of services or negotiations with mortgage servicers, refund restrictions, or any potentially negative ramifications of using the service)?

4. Some states have foreclosure rescue laws which, in whole or in part, only apply once a consumer has received a notice of default. At what stage or stages of the process should a proposed FTC rule protect consumers? Should it take effect before consumers receive a notice of default, after the notice of default is received, or once foreclosure proceedings have begun? Why?

5. Please identify any other state restrictions or challenged conduct which should (or should not) be addressed in a proposed FTC rule, and explain why.

C. Are there any unfair or deceptive acts and practices by providers or advertisers of loan modification and foreclosure rescue services that neither the FTC nor the states have addressed that a proposed FTC rule should address? If so, how should these acts and practices be addressed and why?

4. Scope of Covered Entities

A. As described in the text, an FTC proposed rule would not cover banks, thrifts, federal credit unions, and non-profits. To what extent do these types of entities provide or advertise loan modification and foreclosure rescue services? To what extent do these entities compete with entities that an FTC proposed rule would cover and what effect would an FTC proposed rule have on such competition?

B. As described in the text, many states have exempted attorneys from laws (e.g., foreclosure consultant laws) which regulate the conduct of providers and advertisers of loan modification and foreclosure rescue services. What are the costs and benefits of exempting attorneys from these laws? What has been the effect of such exemptions on competition between attorneys and non-attorneys in providing or advertising loan modification and foreclosure rescue services? Should an FTC proposed rule include an exemption for attorneys or any other class of persons or entities? Why or why not?

By direction of the Commission.

Donald S. Clark

Secretary

[FR Doc. E9–12596 Filed 5–29–09: 8:45 am]

BILLING CODE 6750–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[USCG–2009–0127]

RIN 1625–AA00

Safety Zones: Annual Events Requiring Safety Zones in the Captain of the Port Duluth Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishment of safety zones for annual events in the Captain of the Port Duluth Zone. This rule proposes removal of a safety zone currently located in part 100, and the addition of it to part 165. Further, this rule proposes new safety zones to be added to part 165. These safety zones are necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays.

DATES: Comments and related materials must reach the Coast Guard on or before July 1, 2009.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2009–0127 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov.*

(2) *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.

(3) *Hand Delivery:* Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: LT Aaron Gross, Chief of Port Operations U.S. Coast Guard Sector Duluth; (218) 720–5286 Ext. 111.

I. 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. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0127), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name, mailing address, and an e-mail address or other contact information in the body of your document to ensure that you can be identified as the submitter. This also allows us to contact you in the event further information is needed or if there are questions. For example, if we cannot read your submission due to technical difficulties and you cannot be contacted, your submission may not be considered. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**, but please submit your comments and material by only one means. If you submit them by mail or 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. We may change this proposed rule in view of them.

B. 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* at any time, click on ''Search for Dockets,'' and enter the docket number for this rulemaking (USCG–2009–0127) in the Docket ID box, and click enter. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

C. 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).

SUPPLEMENTARY INFORMATION:

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commanding Officer, Coast Guard Marine Safety Unit Duluth at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This rule proposes the removal of the ''Duluth Fourth Fest Fireworks'' safety zone currently published in § 100.901 and adding it to proposed § 165.945. The Coast Guard proposes this change in an effort to consolidate all Captain of the Port Duluth Zone 4th of July fireworks display safety zones. Additionally, in § 165.945 we propose adding safety zones for fireworks in support of the Cornucopia Fireworks display, Cornucopia, Wisconsin; City of Bayfield Fireworks display, Bayfield, Wisconsin; Madeline Island Fireworks display, LaPointe, Wisconsin; and the Ashland Fireworks display, Ashland, Wisconsin. These safety zones are necessary to protect vessels and people from the hazards associated with fireworks displays. Such hazards include obstructions to the waterway, the explosive danger of fireworks and falling debris.

Discussion of Proposed Rule

The proposed rule is necessary to ensure the safety of vessels and people during annual firework events in the Captain of the Port Duluth area of responsibility that may pose a hazard to the public. This rule proposes the removal of a regulation currently published in 33 CFR 100.901 under Sector Sault Ste. Marie, and the addition of it to proposed § 165.945. It also proposes the addition of four new events never before published in the CFR. All of the events listed occur in the Captain of the Port Duluth Zone.

The proposed safety zones will be enforced only immediately before, during, and after the aforementioned events.

The Captain of the Port Duluth will notify the public that the zones in this proposal will be enforced by all appropriate means to the affected segments of the public including publication in the **Federal Register**. Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is cancelled.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth, or his designated representative. The Captain of the Port or his designated representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The Coast Guard's use of these safety zones will be periodic and of short duration. These safety zones will only be enforced immediately before, during, and after the time the events occur. The Coast Guard expects insignificant adverse impact to mariners from the activation of these safety zones.

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 of operators of vessels intending to transit or anchor in the areas designated as safety zones in subparagraphs (1) through (5) during the dates and times the safety zones are being enforced.

These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons: This proposed rule would be in effect for short periods of time, and only once per year, per zone. The safety zones have been designed to allow traffic to pass safely around the zone whenever possible and vessels will be allowed to pass through the zones with the permission of the Captain of the Port.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Aaron Gross, Chief of Port Operations, Coast Guard Marine Safety Unit Duluth, Duluth, MN at (218) 720–5286 Ext 111. 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 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 proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule will not result in such expenditure, we nevertheless discuss its effects elsewhere in this preamble.

Taking of Private Property

This proposed rule will not effect the 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 proposed 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

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that this rule and fishing rights protection need not be incompatible. We have also determined that this proposed 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this proposed rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

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 Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 023–01, 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 not likely to have a significant effect on the human environment. An environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

For the reasons discussed in the preamble, the Coast Guard proposes to

amend 33 CFR parts 100 and 165 as follows:

List of Subjects

33 CFR Part 100

Regattas and Marine Parades.

33 CFR Part 165

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

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

Authority: 33 U.S.C. 1233.

§ 100.901 [Amended]

2. In Table 1 to § 100.901 Table, under the entry for ''Sector Saulte Ste. Marie, MI'' remove the following: ''Duluth Fourth Fest Fireworks.

Sponsor: Office of the Mayor, Duluth, MN.

Date: 4th of July weekend.

Location: That portion of the Duluth Harbor Basin Northern Section bounded on the south by a line drawn on a bearing of 087° true from the Cargill Pier through Duluth Basin Lighted Buoy #5 (LLNR 15905) to the opposite shore on the north by the Duluth Aerial Bridge. That portion of Duluth Harbor Basin Northern Section within 600 yards of position 46°46′47″ N 092°06′10″ W.''

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

4. Add § 165.945 to read as follows:

§ 165.945 Safety Zones; Annual Fireworks Events in the Captain of the Port Duluth Zone.

(a) *Safety Zones*. The following areas are designated Safety zones.

(1) *Duluth Fourth Fest, Duluth, MN*. (i) *Location*. All waters of the Duluth Harbor Basin Northern Section within 600 yards of position 46°46′47″ N, 092°06′10″ W.; at Duluth, MN. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is enforced from 7 p.m. to 11 p.m. on July 4 of each year.

(2) *Cornucopia Fireworks, Cornucopia, WI*. (i) *Location*. All waters of Lake Superior bounded by the arc of a circle within a 100-foot radius from the Fireworks launch site with its center position: 46°48′36″ N, 090°48′ 36″ W.; at Cornucopia, WI. (DATUM: NAD 83).

(ii) *Enforcement date*. This section is enforced from 9 p.m. to 11 p.m. on July 4 of each year.

(3) *City of Bayfield Fireworks, Bayfield, WI*. (i) *Location*. All waters of Lake Superior bounded by the arc of a circle with a 100-foot radius from the Fireworks launch site with its center in position: 46°48′ 36″ N, 090°48′ 36″ W.; Bayfield, WI. (DATUM: NAD 83).

(ii) *Enforcement date*. This paragraph is enforced from 9 p.m. to 11 p.m. on July 4 of each year.

(4) *Madeline Island Fireworks, LaPointe, WI*. (i) *Location*. All waters of Lake Superior bounded by the arc of a circle with a 250-foot radius from the fireworks launch site with its center in position: 46°46′42″ N, 090°47′18″ W.; at Lapointe, WI. (DATUM: NAD 83).

(ii) *Enforcement date*. This paragraph is enforced from 9:15 p.m. to 10:30 p.m. on July 4 of each year.

(5) *Ashland Fireworks, Ashland, WI*. (i) All waters of Lake Superior, near Ashland, Wisconsin, bounded by the arc of a circle with a 250-foot radius from the Fireworks launch site with its center in position: 46°46′42″ N, 090°47′18″ W.; Ashland, WI. (DATUM: NAD 83).

(ii) *Enforcement date*. This paragraph is enforced from 9 p.m. to 11 p.m. on July 4 of each year.

(b) *Definitions*. The following definitions apply to this section:

(1) *Designated Representative* means any Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port Duluth to monitor a safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zones, and take other actions authorized by the Captain of the Port.

(2) *Public vessel* means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(c) *Regulations*. (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Duluth, or his designated representative.

(2)(i) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port, or his designated representative.

(ii) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port, or his designated representative.

(iii) Upon being hailed by the U.S. Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3)(i) All vessels must obtain permission from the Captain of the Port, or his designated representative to enter, move within, or exit the safety zone established in this section when this safety zone is enforced.

(ii) Vessels and persons granted permission to enter the safety zone must obey all lawful orders or directions of the Captain of the Port or a designated representative.

(iii) While within a safety zone, all vessels must operate at the minimum speed necessary to maintain a safe course.

(d) *Exemption*. Public vessels, as defined in paragraph (b) of this section, are exempt from the requirements in this section.

(e) *Waiver*. For any vessel, the Captain of the Port Duluth, or his designated representative may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of public or environmental safety.

(f) *Notification*. The Captain of the Port Duluth will notify the public by all appropriate means that the zones in this proposal will be enforced. Notification may include publication in the **Federal Register**, Broadcast Notice to Mariners, or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is cancelled.

Dated: May 19, 2009.

M.P. Lebsack,

Commander, U.S. Coast Guard, Captain of the Port Duluth.

[FR Doc. E9–12603 Filed 5–29–09; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0797–200824(b); FRL–8911–4]

Approval and Promulgation of Air Quality Implementation Plans: South Carolina; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for Cherokee County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the South Carolina State Implementation Plan (SIP) concerning the maintenance plan addressing the