

distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCR (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for

which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or

tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

**List of Subjects in 30 CFR Part 948**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 20, 2003.

**Brent Wahlquist,**

*Regional Director, Appalachian Regional Coordinating Center.*

■ For the reasons set out in the preamble, 30 CFR part 948 is amended as set forth below:

**PART 948—WEST VIRGINIA**

■ 1. The authority citation for Part 948 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

■ 2. Section 948.15 is amended in the table by adding a new entry in chronological order by date of publication of final rule to read as follows:

**948.15 Approval of West Virginia regulatory program amendments.**

\* \* \* \* \*

Original amendment submission dates	Date of publication of final rule	Citation/description
* * * * *	* * * * *	* * * * *
May 21, 2001, August 12, 2002 .....	May 7, 2003 .....	W. Va. Code 22-3-10(b).

[FR Doc. 03-11220 Filed 5-6-03; 8:45 am]  
BILLING CODE 4310-05-P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**  
**33 CFR Part 165**  
[CGD05-03-043]  
RIN 1625-AA00

**Safety Zone; Amtrak Railroad Bridge, Susquehanna River, Havre de Grace, MD**

**AGENCY:** Coast Guard, DHS.  
**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing an emergency safety zone to protect the Amtrak Railroad Bridge on the Susquehanna River. This safety zone is necessary to provide for the safety of

life on navigable waters due to damage to the bridge fendering system. This action is intended to restrict vessel traffic in a portion of the Susquehanna River in the vicinity of the Amtrak Railroad Bridge.

**DATES:** This rule is effective from 5 p.m. on April 23, 2003, through 5 p.m. on May 23, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-03-043 and are available for inspection or copying at Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226-1791, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Dulani Woods, Waterways Management, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road,

Baltimore, Maryland 21226-1791, telephone number (410) 576-2513.

**SUPPLEMENTARY INFORMATION: Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the unexpected nature of the weather impacting the railroad bridge and the damage to the bridge fendering system, it is in the public interest to have the safety zone in effect immediately.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the unexpected nature of the weather impacting the railroad bridge and the damage to the bridge fendering system, it is in the public interest to have the safety zone in effect immediately.

### Background and Purpose

Following a report of two tug-and-barge impacts with the Amtrak Railroad Bridge fendering system, underwater damage was discovered, causing an obstruction and creating a hazard to navigation in the eastern portion of the navigable channel. Due to an increasing presence of recreational boating, the prolonged existence of the hazard to navigation, and until repairs to the fendering system have been made, the Coast Guard will restrict vessel traffic in the area.

### Discussion of Rule

The Coast Guard is establishing a temporary safety zone on specified waters of the Susquehanna River in Havre de Grace, Maryland. The temporary safety zone will be enforced from 5 p.m. on April 23, 2003, through 5 p.m. on May 23, 2003. The effect will be to restrict general navigation in the regulated area until repairs to the bridge fendering system have been made and removal of the underwater obstruction. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

### Regulatory Evaluation

This 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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Susquehanna River, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the limited portion of the river that will be regulated. Also, the Captain of the Port will allow smaller vessels that do not pose a significant risk to the bridge or its fendering system to transit the area. Other reasons include extensive notifications that will be made to the maritime community via marine information broadcasts.

### 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 or operators of vessels intending to transit in a portion of the Susquehanna River from 5 p.m. April 23, 2003, to 5 p.m. on May 23, 2003.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone will apply to the entire width of the river, most vessel operators will be allowed to pass through the zone with the permission of the Captain of the Port.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), 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).

### 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 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 effect 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.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final “Environmental Analysis Check List” and a final “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 record keeping requirements, Security measures, 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, 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. Add temporary § 165.T05–043 to read as follows:

#### § 165.T05–043 Safety Zone; Amtrak Railroad Bridge, Susquehanna River, Havre de Grace, Maryland.

(a) *Regulated Area.* The waters of the Susquehanna River, 10 yards in all directions from the swing portion of the Amtrak Railroad Bridge (Mile 1.0 on the Susquehanna River.)

(b) *Regulations.* Except for persons or vessels authorized by the Captain of the Port or his designated representative, no person or vessel may enter or remain in the safety zone.

(c) *Effective date.* This section is effective from 5 p.m. on April 23, 2003 through 5 p.m. on May 23, 2003.

Dated: April 23, 2003.

**Evan Q. Kahler,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.*  
[FR Doc. 03–11298 Filed 5–6–03; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 03–008]

RIN 1625–AA00

#### Safety Zone; San Francisco Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the navigable waters of San Francisco Bay, California, off the San Francisco waterfront, for the “KFOG KaBoom” fireworks display. The safety zone will encompass the navigable waters within a 1,000-foot radius of the launch platform, which will be located approximately 1,000 feet off Piers 30 and 32 in San Francisco, California. This safety zone is necessary to provide for the safety of mariners in the vicinity of the fireworks display and for the safety of the vessel, its crew, and technicians working the fireworks launch barge and the pyrotechnics.

**DATES:** This temporary rule is effective from 7 p.m. to 10 p.m. on May 10, 2003.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of the docket [COTP San Francisco Bay 03–008] and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Diana J. Cranston, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Because the event’s sponsor scheduled this year’s event on a date inconsistent with the date listed in Table 1 to 33 CFR 165.1191 (Safety Zones: Northern California annual fireworks events), a temporary final rule became necessary. Due to specific event sponsored logistical coordination issues, the Coast Guard only recently became aware of

the date change, and therefore there was insufficient time for the Coast Guard to draft and publish an NPRM, or a temporary final rule 30 days prior to the event. As such, the event would occur before the rulemaking process was complete. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to temporarily close the fireworks area and to protect the maritime public from the hazards associated with these fireworks displays, which are intended for public entertainment.

On July 21, 1999, we published a final rule entitled “Special Local Regulations and Safety Zones; Northern California Annual Marine Events” in the **Federal Register** (64 FR 39027), after publishing an NPRM on August 31, 1998 (63 FR 46206). The July 21, 1999 final rule, among other things, added a master list of recurring fireworks events to the Code of Federal Regulations in new § 165.1112 of title 33, Code of Federal Regulations. This section was redesignated as § 165.1191 on June 25, 2001 (66 FR 33642). Table 1 to § 165.1191 lists the annual date for “KFOG KaBoom” as “Last Saturday in May.”

This year’s event will take place on May 10, 2003. The Coast Guard will work with the event sponsor to determine the date of future KFOG KaBoom events. If necessary, the Coast Guard will publish an NPRM to propose appropriate changes to 33 CFR § 165.1191, so mariners and members of the public can better anticipate future fireworks events in Northern California.

#### Background and Purpose

The KFOG KaBoom is an annual fireworks show, which combines fireworks and music and is presented by KFOG, a San Francisco radio station. This safety zone is necessary to protect the spectators, and vessels and other property from the hazards associated with the fireworks show. This temporary safety zone will consist of a small portion of the navigable waters of the San Francisco Bay along the San Francisco waterfront.

#### Discussion of Rule

The temporary safety zone consists of the navigable waters of San Francisco Bay within a 1,000 foot radius of the launch platform, located approximately 1,000 feet off Piers 30 and 32 in San Francisco, California. Entry into, transit through or anchoring within the safety zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative.