

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[CGD05-06-062]

RIN 1625-AA00

Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone upon certain waters of the Patapsco River, Northwest Harbor, and Inner Harbor during the movement of the historic sloop-of-war USS CONSTELLATION. This action is necessary to provide for the safety of life on navigable waters during the tow of the vessel from its berth at the Inner Harbor in Baltimore, Maryland, to a point on the Patapsco River near the Fort McHenry National Monument and Historic Shrine in Baltimore, Maryland, and return. This action will restrict vessel traffic in portions of the Patapsco River, Northwest Harbor, and Inner Harbor during the event.

DATES: This rule is effective from 2 p.m. through 7 p.m. local time on September 8, 2006.

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 docket CGD05-06-062 and are available for inspection or copying at Commander, U. S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland, 21226-1791 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576-2674 or (410) 576-2693.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On June 22, 2006, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD" in the **Federal Register** (71 FR 35854). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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**. The Coast Guard expects a large recreational boating fleet. For safety concerns, it is in the public interest to have a safety zone in place for the event, since immediate action is needed to protect mariners against potential hazards associated with the towing and turn-around of the historic USS CONSTELLATION.

Background and Purpose

The USS CONSTELLATION Museum is planning to conduct a "turn-around" ceremony involving the sloop-of-war USS CONSTELLATION in Baltimore, Maryland on Friday, September 8, 2006. Planned events include a three-hour, round-trip tow of the CONSTELLATION in the Port of Baltimore, with an onboard salute with navy pattern cannon while the historic vessel is positioned off Fort McHenry National Monument and Historic Site. The historic Sloop-of-War USS CONSTELLATION will be towed "dead ship," which means that the vessel will be underway without the benefit of mechanical or sail propulsion. The return dead ship tow of the CONSTELLATION to its berth in the Inner Harbor is expected to occur immediately upon execution of a tug-assisted turn-around of the CONSTELLATION on the Patapsco River near Fort McHenry. The Coast Guard anticipates a large recreational boating fleet during this event, scheduled on a late Friday afternoon during the summer in Baltimore, Maryland. Operators should expect significant vessel congestion along the planned route.

The purpose of this rule is to promote maritime safety and protect participants and the boating public in the Port of Baltimore immediately prior to, during, and after the scheduled event. The rule will provide for a clear transit route for the participating vessels, and provide a safety buffer around the participating vessels while they are in transit. The rule will impact the movement of all vessels operating upon certain waters of the Patapsco River, Northwest Harbor and Inner Harbor.

Discussion of Comments and Changes

The Coast Guard received no comments on the proposed rule during the comment period published in the NPRM. No public meeting was requested and none was held. As a result, no change to the proposed regulatory text was made.

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.

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 would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate, remain or anchor within certain waters of the Patapsco River, Northwest Harbor and Inner Harbor, in Baltimore, Maryland, from 2 p.m. through 7 p.m. on September 8, 2006. Because the zone is of limited size and duration, it is expected that there will be minimal disruption to the maritime community. Before the effective period, the Coast Guard will issue maritime advisories widely available to users of the river and harbors to allow mariners to make alternative plans for transiting the affected areas. In addition, smaller vessels not constrained by their draft, which are more likely to be small entities, may transit around the safety zone.

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. However, we received no requests for assistance from any small entities.

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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded 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" will be available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05-062 to read as follows:

§ 165.T05-062 Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD.

(a) *Definitions.* For the purposes of this section:

(1) *Captain of the Port, Baltimore, Maryland* means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port, Baltimore, Maryland to act on his or her behalf.

(2) *USS CONSTELLATION "turn-around" participants* means the USS CONSTELLATION, its support craft and the accompanying towing vessels.

(b) *Location.* The following area is a moving safety zone: all waters from surface to bottom within 200 yards ahead, 100 yards outboard, and 100 yards aft of the historic Sloop-of-War USS CONSTELLATION, while operating in the Inner Harbor, the Northwest Harbor or the Patapsco River.

(c) *Regulations.* (1) The general regulations governing safety zones, found in § 165.23, apply to the safety zone described in paragraph (b) of this section.

(2) With the exception of USS CONSTELLATION "turn-around" participants, entry into or remaining in this zone is prohibited, unless authorized by the Captain of the Port, Baltimore, Maryland.

(3) Persons or vessels requiring entry into or passage through the moving safety zone must first request authorization from the Captain of the Port, Baltimore, Maryland to seek permission to transit the area. The

Captain of the Port, Baltimore, Maryland can be contacted at telephone number (410) 576-2693. The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF Channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the person or vessel shall proceed as directed. If permission is granted, all persons or vessels must comply with the instructions of the Captain of the Port, Baltimore, Maryland, and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State and local agencies.

(e) *Effective period.* This section will be enforced from 2 p.m. through 7 p.m. local time on September 8, 2006.

Dated: August 11, 2006.

Jonathan C. Burton,

Commander, U.S. Coast Guard, Acting Captain of the Port, Baltimore, Maryland.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01-06-108]

RIN 1625-AA00

Safety Zone; Blasting Operations, Demolition of Mattabassett Outfall, Connecticut River, Cromwell, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the demolition of the Mattabassett Outfall from August 9, 2006 through August 30, 2006 in the waters of the Connecticut River off Cromwell, CT. The zone will temporarily close all waters in the vicinity of the Mattabassett Outfall within a three hundred (300) yard radius of the blasting operations. This temporary safety zone is necessary to protect the maritime community transiting the area from the potential safety hazards associated with demolition and blasting operations. The safety zone temporarily prohibits entry into or movement within this portion of the Connecticut River during the closure period, unless authorized by the Captain of the Port (COTP), Long Island Sound or the COTP's designated representative.

DATES: This rule is effective from 7 a.m. EDT August 9, 2006 through 6 p.m. EDT on August 30, 2006.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD01-06-108 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade D. Miller, Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468-4596.

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 because the logistics of the blasting operations were not presented to the Coast Guard with sufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to the public interest since the safety zone is needed to prevent traffic from transiting a portion of the Connecticut River during the blasting operations and to provide for the safety of life on navigable waters.

For the same reasons, the Coast Guard finds, under 5 U.S.C. 553(d)(3), that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The zone should have a minimal negative impact on the public and navigation as it will only be enforced for short periods of time during the actual blasting operations and not enforced during the entire effective period, allowing vessels to safely transit the Connecticut River off Cromwell, CT.

Background and Purpose

The Mattabassett Outfall located in Cromwell, CT, is currently being demolished. When detonated, spread of the debris will be minimized by blast matting. The blasting and demolition activities have been approved by the Connecticut Department of Environmental Protection. This blasting will also require a Coast Guard explosives handling permit in accordance with 49 CFR 176 as the explosives being used are being loaded onto vessels prior to being placed on the respective piers. The loading of explosives onto vessels will be monitored by Coast Guard personnel.

Discussion of Rule

This regulation establishes a temporary safety zone on the waters of the Connecticut River, off Cromwell, CT, within a 300-yard radius of the blasting operations being conducted at the Mattabassett Outfall.

This action is intended to prohibit vessel traffic in a portion of the Connecticut River of Cromwell, CT, and to provide for the protection of life and property of the maritime public. The safety zone will be enforced for relatively short periods of time during the actual blasting operations. Therefore, the zone will not be enforced during the entire effective period from 7 a.m. EDT August 9, 2006 through 6 p.m. EDT on August 30, 2006. Marine traffic may transit safely through the safety zone during the period when blasting operations are not underway. All blasting operations shall be preceded 5 minutes before the blast by 3 whistles; an additional 2 whistles will be given 1 minute prior to the blast with a final single whistle after the blast indicating the "all clear."

The Captain of the Port anticipates minimal negative impact on vessel traffic as the safety zone will only be enforced for short periods of time during the actual blasting operations and not enforced during the entire effective period. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This rule will have minimal impact on the public for the following reasons: This zone covers only a small portion of the waters of the Connecticut River, and there is no impact on commercial vessels. Additionally, the safety zone will only be enforced for relatively short periods during blasting operations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small