

of the December 31, 2008, contribution (\$150,000 minus \$107,500 minus \$25,000, or \$17,500) is paid after the due date for the second required quarterly installment. Accordingly, the remaining \$17,500 contribution is adjusted using an interest rate of 10.75% for the 5½-month period between the payment date of December 31, 2008 and the quarterly contribution due date of July 15, 2008, and at the 5.75% effective interest rate for the 6½ months between July 15, 2008, and January 1, 2008. This portion of the December 31, 2008, contribution results in an adjusted amount of \$16,202 (that is,  $\$17,500 \div 1.1075^{(5.5/12)} \div 1.0575^{(6.5/12)}$ ) as of January 1, 2008.

(vi) The remaining unpaid minimum required contribution for 2008 is \$125,000 minus the interest-adjusted amounts of \$22,880 and \$16,202 applied towards the 2008 minimum required contribution as determined in paragraphs (iv) and (v) of this *Example 5*. This results in an unpaid minimum required contribution of \$85,918 for 2008. The section 4971(a) excise tax is 10% of the unpaid minimum required contribution, or \$8,592.

*Example 6.* (i) Plan C, a single employer defined benefit plan, has a calendar year plan year and a January 1 valuation date, and has no funding standard carryover balance or prefunding balance as of January 1, 2008. Plan C's sponsor has a calendar year taxable year. The minimum required contributions for Plan C are \$100,000 for the 2008 plan year, \$110,000 for the 2009 plan year, \$125,000 for the 2010 plan year, and \$135,000 for the 2011 plan year. No contributions for these plan years are made until September 15, 2012, at which time the plan sponsor contributes \$273,000 (which is exactly enough to correct the unpaid minimum required contributions for the 2008 and 2009 plan years).

(ii) The excise tax under section 4971(a) is 10% of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending within the 2008 taxable year. Accordingly, the excise tax for the 2008 taxable year is \$10,000 (that is, 10% of \$100,000). The excise tax for the 2009 taxable year is \$21,000 (that is, 10% of the sum of \$100,000 and \$110,000) and the excise tax for the 2010 taxable year is \$33,500 (that is, 10% of the sum of \$100,000, \$110,000, and \$125,000).

(iii) The contribution made on September 15, 2012, is applied to correct the unpaid minimum required contributions for the 2008 and 2009 plan years by the deadline for making contributions for the 2011 plan year. Therefore, the excise tax under section 4971(a) for the 2011 taxable year is based only on the remaining unpaid minimum required contributions for the 2010 and 2011 plan years, or \$26,000 (that is, 10% of the sum of \$125,000 and \$135,000).

(iv) The plan sponsor may also be required to pay an excise tax of 100% under section 4971(b), if the unpaid minimum required contributions are not corrected by the end of the taxable period.

(g) *Effective/applicability dates and transition rules*—(1) *Statutory effective date*—(i) *In general*. In general, the

amendments made to section 4971 by section 114 of the Pension Protection Act of 2006, Public Law 109–280, 120 Stat. 780 (PPA '06), apply to taxable years beginning on or after January 1, 2008, but only with respect to plan years that end with or within any such taxable year.

(ii) *Plans with delayed PPA '06 effective dates*. In the case of a plan for which the effective date of section 430 is delayed in accordance with sections 104 through 106 of PPA '06, the amendments made to section 4971 by section 114 of PPA '06 apply to taxable years beginning on or after January 1, 2008, but only with respect to plan years beginning on or after the date section 430 first applies with respect to the plan.

(2) *Effective date of regulations*. This section is effective for taxable years beginning on and after the statutory effective date described in paragraph (g)(1) of this section, but in no event does this section apply to taxable years ending before April 15, 2008.

(3) *Pre-effective plan year*. For purposes of this section, the pre-effective plan year for a plan is the last plan year beginning before section 430 applies to the plan. Thus, except for plans with a delayed effective date under paragraph (g)(1)(ii) of this section, the pre-effective plan year for a plan is the last plan year beginning before January 1, 2008.

**Linda E. Stiff,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 08–1133 Filed 4–11–08; 10:10 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2008–0180]

RIN 1625–AA00

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone upon certain waters of the Patapsco River, Northwest Harbor and Inner Harbor during the movements of the historic sloop-of-war USS CONSTELLATION. This action is necessary to provide for

the safety of life on navigable waters during two tows of the vessel in Baltimore, Maryland; one from its berth at Baltimore's Inner Harbor to a berth at the South Locust Point Marine Terminal, and the other from the South Locust Point Marine Terminal to its berth at Baltimore's Inner Harbor. This action will restrict vessel traffic in portions of the Patapsco River, Northwest Harbor, and Inner Harbor during these events.

**DATES:** Comments and related material must reach the Coast Guard on or before May 30, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG–2008–0180 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:** If you have questions on this proposed rule, call Mr. Ronald Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674 or (410) 576–2693. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's "Privacy Act" paragraph below.

### Submitting comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0180), 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 and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. 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.

### 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. Enter the docket number for this rulemaking (USCG–2008–0180) in the Search box, and click “Go >>.” You may also visit either 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; or the 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.

### Privacy Act

Anyone can search the electronic form of all 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 the Department of Transportation’s Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://DocketsInfo.dot.gov>.

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility 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

The USS CONSTELLATION Museum is planning to conduct a ceremony in the Port of Baltimore, Maryland, involving the sloop-of-war USS CONSTELLATION on Friday, August 8, 2008. Scheduled events include a four-hour tow of the USS CONSTELLATION beginning at 6 p.m., from its berth at Pier 1 Inner Harbor to the Locust Point Cruise Ship Terminal berth at the South Locust Point Marine Terminal, with an onboard salute with navy pattern cannon while the historic vessel is positioned off Fort McHenry National Monument and Historic Site. A one-hour return tow of the CONSTELLATION is scheduled for Sunday, August 10, 2008. Departure from the Locust Point Cruise Ship Terminal will occur at 7 a.m. and arrival at Pier 1 Inner Harbor at 8 a.m. For both tows, 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. While berthed at the Locust Point Cruise Ship Terminal, the vessel will participate in the commissioning ceremonies for the U.S. Navy’s new Arleigh Burke class Aegis guided missile destroyer USS STERETT, DDG 104. The Coast Guard anticipates a large recreational boating fleet during these events, scheduled on a weekend during the summer in Baltimore, Maryland. Operators should expect significant vessel congestion along the planned route.

The purpose of this proposed 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 proposed 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 proposed rule will impact the movement of all vessels operating upon certain waters of the Patapsco River, Northwest Harbor and Inner Harbor.

### Discussion of Proposed Rule

The historic sloop-of-war USS CONSTELLATION is scheduled to be

towed “dead ship” on August 8, 2008 and on August 10, 2008. The CONSTELLATION is scheduled to be towed within the Port of Baltimore, Maryland, from its berth at Pier 1 in Baltimore’s Inner Harbor to the Locust Point Cruise Ship Terminal, at South Locust Point Marine Terminal, along a one-way, planned route of approximately four nautical miles, which includes specified waters of the Patapsco River, Northwest Harbor and Inner Harbor.

The safety of dead ship tow participants requires that persons and vessels be kept at a safe distance from the intended route during this evolution. The Coast Guard proposes to establish a temporary moving safety zone around the USS CONSTELLATION dead ship tow participants for all waters within 200 yards ahead of, 100 yards outboard and 100 yards aft of the historic Sloop-of-War USS CONSTELLATION while operating in the Inner Harbor, the Northwest Harbor and the Patapsco River on August 8, 2008 and on August 10, 2008, to ensure the safety of participants and spectators immediately prior to, during, and following the dead ship tows. Interference with normal port operations will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled event.

### Regulatory Evaluation

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis based on 13 of these statutes or executive orders.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to operate, remain or anchor within certain waters of the Patapsco River, Northwest

Harbor and Inner Harbor, in Baltimore, Maryland, from 5 p.m. through 11 p.m. on August 8, 2008 and from 6 a.m. through 11 a.m. on August 10, 2008. 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.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Ronald Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674 or (410) 576–2693. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires

Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not 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 proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

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

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

#### Environment

We have analyzed this proposed rule under 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 made a preliminary determination that this action is not likely to have a significant effect on the human environment. A preliminary “Environmental Analysis Check List” 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.

We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

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

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

#### Words of Issuance and Proposed Regulatory Text

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T08–019 to read as follows:

**§ 165.T08–019 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 within 200 yards ahead of, 100 yards outboard and 100 yards aft of the historic Sloop-of-War USS CONSTELLATION, surface to bottom, while operating in the Inner Harbor, the Northwest Harbor and 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. This section will be enforced from 5 p.m. through 11

p.m. on August 8, 2008 and from 6 a.m. through 11 a.m. on August 10, 2008.

Dated: March 21, 2008.

**Brian D. Kelley,**

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

[FR Doc. E8–7938 Filed 4–14–08; 8:45 am]

BILLING CODE 4910–15–P

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG–2008–0189]

RIN 1625–AA00

**Safety Zones; Fireworks Displays Within the Fifth Coast Guard District**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to revise the list of permanent safety zones established for fireworks displays at various locations within the geographic boundary of the Fifth Coast Guard District. This action is necessary to protect the life and property of the maritime public from the hazards posed by fireworks displays. Entry into or movement within these proposed zones during the enforcement periods is prohibited without approval of the appropriate Captain of the Port.

**DATES:** Comments and related material must reach the Coast Guard on or before May 15, 2008.

**ADDRESSES:** You may submit comments identified by Coast Guard docket number USCG–2008–0189 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:** If you have questions on this proposed rule, call Dennis Sens, Project Manager,

Fifth Coast Guard District, Prevention Division, Inspections and Investigations Branch, at (757) 398–6204. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**Public Participation and Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT’s “Privacy Act” paragraph below.

**Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0189), 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 and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. 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.

**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–2008–0189) in the Search box, and click “Go>>.” You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC