

therefore alter the regulations accordingly.

Further, due to the court's findings regarding § 540.20(b), the identical provision in § 540.62(d) will also be deleted.

#### Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) allows exceptions to notice-and-comment rulemaking "when the agency for good cause finds \* \* \* that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." Further, § 553(d) provides an exception to the usual requirement of a delayed effective date when an agency finds "good cause" that the rule be made immediately effective.

This rulemaking is exempt from normal notice-and-comment procedures because advance notice and public comment in this instance is impracticable. It is impracticable to invite public comment on the result of a court order which invalidated the regulatory provision which we now seek to remove. Further, prompt implementation of the court order is necessary to protect the Bureau from liability arising from potential application of an invalidated regulation, and to afford inmates the benefit of the court's decision. Otherwise, this rulemaking makes no change to any rights or responsibilities of the agency or any regulated entities. For the same reasons, the Bureau finds that "good cause" exists to make this rule effective upon publication. Nevertheless, the Bureau invites public comment on this interim rule.

#### Executive Order 12866

This regulation falls within a category of actions that the Office of Management and Budget (OMB) has determined to constitute "significant regulatory actions" under section 3(f) of Executive Order 12866 and, accordingly, it was reviewed by OMB.

The Bureau of Prisons has assessed the costs and benefits of this regulation as required by Executive Order 12866 Section 1(b)(6) and has made a reasoned determination that the benefits of this regulation justify its costs. There will be no new costs associated with this regulation.

#### Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under

Executive Order 13132, we determine that this regulation does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

#### Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This regulation pertains to the correctional management of offenders and immigration detainees committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

#### Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Small Business Regulatory Enforcement Fairness Act of 1996

This regulation is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This regulation will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### List of Subjects in 28 CFR Part 540

Prisoners.

#### Harley G. Lappin,

*Director, Bureau of Prisons.*

■ Under rulemaking authority vested in the Attorney General in 5 U.S.C 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons amends 28 CFR part 540 as follows.

#### PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

■ 1. Revise the authority citation for 28 CFR part 540 to read as follows:

**Authority:** 5 U.S.C. 301; 551, 552a; 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses

committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

#### Subpart B—Correspondence

■ 2. Revise § 540.20(b) as follows:

##### § 540.20 Inmate correspondence with representatives of the news media.

\* \* \* \* \*

(b) The inmate may not receive compensation or anything of value for correspondence with the news media. The inmate may not act as reporter.

\* \* \* \* \*

#### Subpart E—Contact With News Media

■ 3. Revise § 540.62(d) as follows:

##### § 540.62 Institutional visits.

\* \* \* \* \*

(d) An inmate currently confined in an institution may not be employed or act as a reporter.

\* \* \* \* \*

[FR Doc. 2010–9373 Filed 4–22–10; 8:45 am]

#### BILLING CODE P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2010–0256]

RIN 1625-AA00

#### Safety Zone; Neuse River, New Bern, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of the Neuse River in support of the New Bern, North Carolina Tercentennial Celebration. All vessels are prohibited from transiting the zone except as specifically authorized by the Captain of the Port or his designated representative. The temporary safety zone is necessary to provide for the safety of the crews, spectators, and other users and vessels of the waterway during a Civil War naval bombardment reenactment.

**DATES:** This rule is effective from 11:30 a.m. through 8 p.m. on May 8, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0256 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0256 in the "Keyword"

box, and then clicking "Search." They are also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail CWO4 Stephen Lyons, Waterways Management Division Chief, Coast Guard Sector North Carolina; telephone (252) 247-4525, e-mail [Stephen.W.Lyons2@uscg.mil](mailto:Stephen.W.Lyons2@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because insufficient notice was provided to the Coast Guard to publish an NPRM and because the Coast Guard must take immediate measures to ensure the safety of life and property on the navigable waters of the United States.

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**. Delaying the effective date would be contrary to public interest, since immediate action is needed to ensure the public's safety from the hazards associated with maneuvering deep draft sailing vessels in the limits of a narrow channel and the firing of black powder cannons during a Civil War naval bombardment reenactment.

##### **Basis and Purpose**

The City of New Bern, North Carolina is sponsoring a Civil War naval bombardment reenactment on the waters of the Neuse River. The naval bombardment will include the 62' Skipjack Ada Mae, the 72' Gaff Rigged Schooner Jeanie B, and the 58'

Brigantine Meka II. The sailing vessels will be under sail and firing black powder cannons within the confines of the safety zone. Due to their limited maneuverability and draft, the event vessels are restricted to within 200 yards of the main channel.

##### **Discussion of Rule**

The Coast Guard is establishing a temporary safety zone on the waters of the Neuse River bound to the west by the U.S. Route 70 Highway Draw Bridge, from James City extending 700 yards east along the U.S. Highway 17 Highway Fixed Bridge, to a point 300 yards due east of Neuse River Daybeacon 34. The limits of the safety zone will encompass all the waters of the Neuse River bound by the following points; onshore at New Bern in approximate position 35°06'12" W; 077°02'12" N thence to 35°05'52" W; 077°02'15" N thence to 35°05'49" W; 077°01'49" N thence to 35°06'17" W; 077°01'48" N thence to 35°06'21" W; 077°02'06" N. The temporary safety zone will be enforced from 11:30 a.m. to 1 p.m. and from 6:30 p.m. to 8 p.m. on May 8, 2010. The safety zone is necessary to provide for the safety of the participating vessels, crews, spectators, sponsor vessels, and other users and vessels of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or a designated representative.

##### **Regulatory Analyses**

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

##### **Regulatory Planning and Review**

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. Although this regulation will restrict access to the area, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration of time; and (ii), the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly.

##### **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 tugs and barges, recreational, and fishing vessels intending to transit the specified portion of the Neuse River from 11:30 a.m. to 1 p.m. and from 6:30 p.m. to 8 p.m. on May 8, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for a limited duration of time and before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

##### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can 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). 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 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 (adjusted for inflation) 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 cause 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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, 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 this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule establishes a temporary safety zone to protect the general public from the hazards associated with maneuvering deep draft sailing vessels in the limits of a narrow channel and the firing of black powder cannons during a civil war naval bombardment reenactment. An environmental analysis checklist and a 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 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, 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.

■ 2. Add § 165.T05–0256 to read as follows:

#### § 165.T05–0256 Safety Zone; Neuse River, New Bern, NC.

(a) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commander, Sector North Carolina. *Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a temporary safety zone: the waters of the Neuse River bound to the west by the U.S. Route 70 Highway Draw Bridge, from James City extending 700 yards east along the U.S. Highway 17 Highway Fixed Bridge, to a point 300 yards due east of Neuse River Daybeacon 34. This zone includes all the waters of the Neuse River bound by the following points; Onshore at New Bern in approximate position 35°06'12" W; 077°02'12" N thence to 35°05'52" W; 077°02'15" N thence to 35°05'49" W; 077°01'49" N thence to 35°06'17" W; 077°01'48" N thence to 35°06'21" W; 077°02'06" N.

(c) *Regulations.* (1) The general regulations contained in § 165.23 of this part apply to the area described in paragraph (b) of this section.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or a designated representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at telephone number (252) 247–4570 or by radio on VHF Marine Band Radio, channels 13 and 16.

(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) *Enforcement period.* This section will be enforced from 11:30 a.m. to

1 p.m. and from 6:30 p.m. to 8 p.m. on May 8, 2010 unless cancelled earlier by the Captain of the Port.

Dated: April 6, 2010.

**A. Popiel,**

*Captain, U.S. Coast Guard, Captain of the Port North Carolina.*

[FR Doc. 2010-9497 Filed 4-22-10; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2010-0081]

RIN 1625-AA08

**Special Local Regulations for Marine Events; Chester River, Chestertown, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing special local regulations during the reenactment portion of the "Chestertown Tea Party Festival", a marine event to be held on the waters of the Chester River, Chestertown, MD on May 29, 2010. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Chester River during the event.

**DATES:** This rule is effective from 10 a.m. until 5 p.m. on May 29, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2010-0081 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0081 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Mr. Ronald Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410-576-2674, e-mail [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil). If you have questions on viewing the docket, call

Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On March 5, 2010, we published a notice of proposed rulemaking (NPRM) entitled "Special Local Regulations for Marine Events; Chester River, Chestertown, MD" in the **Federal Register** (75 FR 043). We received no comments on the proposed rule. No public meeting was requested, and none was held.

**Basis and Purpose**

On May 29, 2010, the Chestertown Tea Party Festival will sponsor a reenactment in the Chester River at Chestertown, MD. The key component of the event consists of the Schooner SULTANA departing from its berth in Chestertown, transiting 200 yards to an anchorage location, embarking and disembarking Tea Party actors by dinghy, and then returning to its berth. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels.

**Discussion of Comments and Changes**

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held.

**Regulatory Analyses**

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

**Regulatory Planning and Review**

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. Although this regulation will prevent traffic from transiting a portion of the Chester River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners and marine information broadcasts, so mariners can adjust their plans accordingly. Additionally, the

regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit safely around the regulated area.

**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 may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Chester River during the event.

Although this regulation prevents traffic from transiting a portion of the Chester River at Chestertown, MD during the event, this rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only a limited period. The regulated area is of limited size. Vessel traffic will be able to transit safely around the regulated area. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM 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). The Coast Guard will not retaliate against