

## 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 which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule involves the establishment of a Special Local Regulation in conjunction with a marine event permit. Under the terms of the instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this regulation.

### List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

**Authority:** 33 U.S.C. 1233.

■ 2. Add a new temporary § 100.35T08-0785 to read as follows:

### § 100.35T08-0785 Special Local Regulations for Marine Events; HITS Triathlon; Corpus Christi Bayfront, Corpus Christi, TX.

#### (a) Definitions.

(1) As used in this section “Participant Vessel” means all vessels officially registered with event officials to race or work in the event. These vessels include race boats, rescue boats, tow boats, and picket boats associated with the race.

(2) The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the Captain of the Port Corpus Christi in the enforcement of the regulated area

(b) *Location.* The following area is a special local regulation: All waters of the Corpus Christi Bayfront area contained within the North Entrance to the Corpus Christi Marina. The western and eastern boundaries are the

structures that physically construct the North Entrance to the Corpus Christi Marina; respectively, S. Southshore Line Blvd. and the three Breakwater walls. The northern boundary is a straight line running from the entrance of the Corpus Christi Art Museum Pier Security Fence (approx 27°48′37.6″ N/097°32′34.3″ W) to the northern most tip of the breakwater walls (approx 27°48′31.1″ N/097°23′27.2″ W). The southern boundary is a straight line running from the intersection of Mann St. and S. Southshore Line Blvd. (approx 27°48′03.5″ N/097°23′28.1″ W) to the southernmost tip of the breakwater walls (approx 27°48′09.5″ N/097°23′18.1″ W).

(c) *Enforcement Period.* This regulation will be enforced on February 18, 2012 from 6:45 a.m. to 8:15 a.m. and 11:45 a.m. to 1:15 p.m., and on February 19, 2012 from 6:45 a.m. to 9:45 a.m., or until swim the for each race is complete.

#### (d) Regulations.

(1) In accordance with the general regulations for marine events detailed in § 100.35, 100.40, and 100.801 of this part, entry into this zone is prohibited to all vessels except participant vessels and those vessels specifically authorized by the Captain of the Port, Corpus Christi, designated Coast Guard Patrol Commander or a designated representative.

(2) Persons or vessels requiring entry into or passage through must request permission from the Captain of the Port, Corpus Christi, designated Coast Guard Patrol Commander or a designated representative. They may be contacted on VHF Channel 13 or 16, or by telephone at (361) 939-6349.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port, Corpus Christi, designated Coast Guard Patrol Commander or a designated representative.

(e) *Informational Broadcasts.* The Captain of the Port Corpus Christi or a designated representative will inform the public through broadcast notice to mariners when special local regulations have been established and if there are changes to the enforcement period for this special local regulation.

Dated: November 23, 2011.

**J.R. Pasch,**

*Captain, U.S. Coast Guard, Captain of the Port, Corpus Christi.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket No. USCG-2011-1165]

RIN 1625-AA87

### Security Zone; Potomac and Anacostia Rivers, Washington, DC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing certain waters of the Potomac River and Anacostia River in order to safeguard high-ranking public officials from terrorist acts and incidents. This action is necessary to ensure the safety of persons and property, and prevent terrorist acts or incidents. This rule prohibits vessels and people from entering the security zone and requires vessels and persons in the security zone to depart the security zone, unless specifically exempt under the provisions in this rule or granted specific permission from the Coast Guard Captain of the Port Baltimore.

**DATES:** This rule is effective from 4 p.m. until 11:59 p.m. on January 24, 2012.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-1165 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-1165 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 email Mr. Ronald L. Houck, at Sector Baltimore Waterways Management Division, Coast Guard; telephone (410) 576-2674, email [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

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 it is contrary to public interest to delay the effective date of this rule. The Coast Guard is establishing the security zone to protect high-ranking government officials, mitigate potential terrorist acts, and enhance public and maritime safety and security. The Coast Guard was unable to publish a NPRM due to the short time period between event planners notifying the Coast Guard of the event and publication of the security zone. Furthermore, delaying the effective date would be contrary to the security zone’s intended objectives of protecting high-ranking government officials, mitigating potential terrorist acts and enhancing public and maritime safety security.

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 need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment, therefore, a 30-day notice period is impracticable. Delaying the effective date would be contrary to the security zone’s intended objectives of protecting high-ranking government officials, mitigating potential terrorist acts and enhancing public and maritime safety and security.

#### **Background and Purpose**

The President will address the nation on January 24, 2012. During this event, a gathering of high-ranking United States officials will take place at the U.S. Capitol Building in Washington, DC, in close proximity to navigable waterways within the Captain of the Port’s Area of Responsibility.

The Coast Guard has given each Coast Guard Captain of the Port the ability to implement comprehensive port security regimes designed to safeguard human life, vessels, and waterfront facilities while still sustaining the flow of commerce. The Captain of the Port Baltimore is establishing this security zone to protect high-ranking government officials, mitigate potential terrorist acts, and enhance public and maritime safety and security in order to safeguard life, property, and the

environment on or near the navigable waters.

#### **Discussion of Rule**

Through this regulation, the Coast Guard will establish a security zone. The security zone will be in effect from 4 p.m. until 11:59 p.m. on January 24, 2012. The security zone will include all navigable waters of the Potomac River, from shoreline to shoreline, bounded on the north by the Francis Scott Key (U.S. Route 29) Bridge at mile 113.0, downstream to and bounded on the south between the Virginia shoreline and the District of Columbia shoreline along latitude 38°51’00” N, including the waters of the Georgetown Channel Tidal Basin; and all waters of the Anacostia River, from shoreline to shoreline, bounded on the north by the 11th Street (I–295) Bridge at mile 2.1, downstream to and bounded on the south by its confluence with the Potomac River. This location is entirely within the Area of Responsibility of the Captain of the Port Baltimore, as set forth at 33 CFR 3.25–15.

This rule provides that entry into, attempted entry into, or remaining in this security zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. Except for persons or vessels authorized by the Captain of the Port Baltimore, no person or vessel may enter or remain in the regulated area during the effective period. Vessels already at berth, mooring, or anchor at the time the security zone is implemented do not have to depart the security zone. All vessels underway within the security zone at the time it becomes effective are to depart the zone immediately. To seek permission to transit the area, the Captain of the Port Baltimore can be contacted at telephone number (410) 576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Coast Guard vessels enforcing the security zone can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). The Coast Guard will issue Broadcast Notices to Mariners to further publicize the security zone.

#### **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 security zone restricts vessel traffic through the affected area, vessels may seek permission from the Captain of the Port Baltimore to enter and transit the zone. Furthermore, the effect of this regulation will not be significant due to the limited size and duration that the regulated area will be in effect. In addition, notifications will be made to the maritime community via marine information broadcasts so mariners may 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 may affect the following entities, some of which might be small entities: The owners or operators of vessels intending to operate or transit through or within the security zone during the enforcement period. The security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The security zone is of limited duration. Although the security zone will apply to the entire width of the Potomac and Anacostia Rivers, traffic may be allowed to pass through the zone with the permission of the Captain of the Port Baltimore. Before the effective period, maritime advisories will be widely available to the maritime community. Additionally, given the time of year this event is scheduled, the vessel traffic is expected to be minimal.

#### **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 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 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 which 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 involves establishing a temporary security zone. 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. 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, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T05-1165 to read as follows:

#### § 165.T05-1165 Security Zone; Potomac and Anacostia Rivers, Washington, DC.

(a) *Location*. The following area is a security zone: All waters of the Potomac River, from shoreline to shoreline, bounded on the north by the Francis Scott Key (U.S. Route 29) Bridge at mile 113.0, downstream to and bounded on the south between the Virginia shoreline and the District of Columbia shoreline along latitude 38°51'00" N, including the waters of the Georgetown Channel Tidal Basin; and all waters of the Anacostia River, from shoreline to shoreline, bounded on the north by the 11th Street (I-295) Bridge at mile 2.1, downstream to and bounded on the south by its confluence with the Potomac River (North American Datum 1983).

(b) *Definitions*. As used in this section:

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

*Designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the security zone described in paragraph (a) of this section.

(c) *Regulations*. The general security zone regulations found in 33 CFR

165.33 apply to the security zone created by this temporary section, § 165.T05.1165.

(1) All persons are required to comply with the general regulations governing security zones found in 33 CFR 165.33.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. Vessels already at berth, mooring, or anchor at the time the security zone is implemented, however, do not have to depart the security zone. All vessels underway within this security zone at the time it is implemented are to depart the zone. The Captain of the Port Baltimore may, in his discretion, grant waivers or exemptions to this rule, either on a case-by-case basis or categorically to a particular class of vessel that otherwise is subject to adequate control measures.

(3) Persons desiring to transit the area of the security zone must first obtain authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number (410) 576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

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

(d) *Enforcement period.* This section will be enforced from 4 p.m. through 11:59 p.m. on January 24, 2012.

Dated: January 4, 2012.

**Mark P. O'Malley,**

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

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**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-1157]

RIN 1625-AA87

#### Security Zone; 24th Annual North American International Auto Show, Detroit River, Detroit, MI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone on the Detroit River, Detroit, Michigan. This zone is intended to restrict vessels from a portion of the Detroit River in order to ensure the safety and security of participants, visitors, and public officials at the 24th Annual North American International Auto Show (NAIAS), which is being held at Cobo Hall in downtown Detroit, MI. Vessels and persons may not enter this security zone without permission of the Captain of the Port Detroit or the COTP on-scene representative.

**DATES:** This rule is effective from 8 a.m. on January 8, 2012, until 12:01 a.m. on January 23, 2012.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-1157 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-1157 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 email LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568-9508, email [Adrian.F.Palomeque@uscg.mil](mailto:Adrian.F.Palomeque@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 notice of this year's event was not received in sufficient time for the Coast Guard to solicit public comments before the event's start. Thus, waiting for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the spectators of and participants in this event from the hazards discussed below.

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 of this rule would be contrary to the public interest for the same reasons discussed in the preceding paragraph.

##### Background and Purpose

The 24th Annual North American International Auto Show (NAIAS) will be held at Cobo Hall in downtown Detroit, MI. The NAIAS is the prime venue for introducing the world's most anticipated vehicles. The public showing days of the NAIAS begin January 14 and extend through January 22. Prior to the public showing, there will also be multiple high profile events; including the press preview days (January 9-10, 2012), industry preview days (January 11-12, 2012), and the charity preview event (January 13, 2012). In 2011, the NAIAS attendance for the public showing was over 735,000 people and press preview days attracted over 5,000 journalists representing 55 countries. Attendance and participation at the 2012 NAIAS is anticipated to rival last year's attendance and will likely be one of the largest media events in North America.

NAIAS has attracted numerous protesters from various organizations. Due to the current state of the economy, the recent number of layoffs, the closures of several thousand automotive dealerships around the country, and the likely presence of high profile visitors, it is possible that protests may continue to occur at this year's event.

Consequently, the Captain of the Port Detroit has determined that it is necessary to safeguard portions of the Detroit River from destruction, loss, or injury from sabotage or other subversive acts.