

(5) Ensures that challengers are not subject to retribution for bringing such challenges.

(c) Until the challenge is resolved, continue to safeguard and disseminate the challenged CUI at the control level indicated in the markings.

(d) If a challenging party disagrees with the response to their challenge, that party may use the Dispute Resolution procedures described in § 2002.23 of this part.

#### § 2002.23 Dispute resolution.

(a) All parties to a dispute arising from implementation or interpretation of the Order, this part, or the CUI Registry should make every effort to resolve the dispute expeditiously. Disputes should be resolved within a reasonable, mutually acceptable time period, taking into consideration the mission, sharing, and protection requirements of the parties concerned.

(b) If parties to a dispute cannot reach a mutually acceptable resolution, either party may refer the matter to the CUI Executive Agent.

(c) The CUI Executive Agent is the impartial arbiter of the dispute and has the authority to render a decision on the dispute after consultation with all affected parties, unless laws, regulations, or Government-wide policies otherwise specifically govern requirements for the involved category or subcategory of information. If a party to the dispute is also a member of the Intelligence Community, the CUI Executive Agent must consult with the Office of the Director of National Intelligence beginning when the CUI Executive Agent receives the dispute for resolution.

(d) Until the dispute is resolved, continue to safeguard and disseminate any disputed CUI at the control level indicated in the markings.

(e) Per section 4(e) of the Order, parties may appeal the CUI Executive Agent's decision through the Director of OMB to the President for resolution.

#### § 2002.24 Misuse of CUI.

(a) CUI senior agency officials establish agency processes and criteria for reporting and investigating misuse of CUI.

(b) The CUI Executive Agent reports findings on any incident involving misuse of CUI to the offending agency's CUI senior agency official or CUI Program manager for action, as appropriate.

#### § 2002.25 Sanctions for misuse of CUI.

(a) To the extent that agency heads are otherwise authorized to take administrative action against agency

personnel who misuse CUI, agency CUI policy governing misuse should reflect that authority.

(b) Where laws, regulations, or Government-wide policies governing certain categories or subcategories of CUI specifically establishes sanctions, agencies must adhere to such sanctions.

#### § 2002.26 Transferring records.

(a) When feasible, agencies must decontrol records containing CUI prior to transferring them to NARA.

(b) When an agency cannot decontrol records before transferring them to NARA, the agency must:

(1) Indicate on a Transfer Request (TR) in NARA's Electronic Records Archives (ERA) or on an SF 258 paper transfer form, that the records should continue to be controlled as CUI (subject to NARA's regulations on transfer, public availability, and access; see 36 CFR parts 1235, 1250, and 1256); and

(2) For hard copy transfer, place the appropriate CUI marking on the outside of the container to indicate that it contains information designated as CUI.

(c) If the agency does not indicate the CUI status on both the container and the TR or SF 258, NARA may assume the information was decontrolled prior to transfer, regardless of any CUI markings on the actual records.

#### § 2002.27 CUI and the Freedom of Information Act (FOIA).

(a) The mere fact that information is designated as CUI has no bearing on determinations pursuant to any law requiring the disclosure of information or permitting disclosure as a matter of discretion.

(b) Accordingly, agencies must ensure that:

(1) They do not cite the FOIA as a CUI safeguarding or disseminating control authority for CUI; and

(2) Agency FOIA reviewers use FOIA release standards and exemptions to determine whether or not to release records in response to a FOIA request; they do not use CUI markings and designations as a dispositive factor in making a FOIA disclosure determination.

#### § 2002.28 CUI and the Privacy Act.

The fact that records are subject to the Privacy Act of 1974 does not mean that agencies must mark them as CUI. Consult agency guidance to determine which records may be subject to the Privacy Act. However, information contained in Privacy Act systems of records may be subject to controls under other CUI categories or subcategories and the agency may need to mark that information as CUI for that reason.

Dated: April 27, 2015.

**David S. Ferriero,**

*Archivist of the United States.*

[FR Doc. 2015-10260 Filed 5-7-15; 8:45 am]

BILLING CODE 7515-01-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2015-0315]

RIN 1625-AA00

#### Safety Zone for Fireworks Display, Patapsco River, Inner Harbor, Baltimore, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone encompassing certain waters of the Patapsco River. This action is necessary to provide for the safety of life on navigable waters during a fireworks display launched from a barge located within the Inner Harbor at Baltimore, MD, on July 2, 2015. This safety zone is intended to protect the maritime public in a portion of the Patapsco River.

**DATES:** Comments and related material must be received by the Coast Guard on or before May 15, 2015.

**ADDRESSES:** You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal:*

<http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail or Delivery:* 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. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Ronald Houck, 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 or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

#### A. 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.

##### 1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number [USCG-2015-0315] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments 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 and may change the rule based on your comments.

##### 2. 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>, type the docket number (USCG-2015-0315) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

##### 3. Privacy Act

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

##### 4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting 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**.

#### B. Regulatory History and Information

This rule involves a fireworks display associated with an event that will take place in Baltimore, MD, on July 2, 2015. The launch site for the fireworks display is from a discharge barge located in the Patapsco River. The permanent safety zones listed in the Table to 33 CFR 165.506 do not apply to this event.

#### C. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 33 CFR 1.05-1 and 160.5; and Department of Homeland Security Delegation No. 0170.1., which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. Fireworks displays are frequently held from locations on or near the navigable waters of the United States. The potential hazards associated with fireworks displays are a safety concern during such events. The purpose of this rule is to promote public and maritime safety during a fireworks display, and to protect mariners transiting the area from

the potential hazards associated with a fireworks display, such as the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is needed to ensure safety on the waterway before, during and after the scheduled event.

#### D. Discussion of Proposed Rule

Under Armour will sponsor a fireworks display launched from a barge located in the Inner Harbor in Baltimore, MD, scheduled on July 2, 2015 at approximately 9:30 p.m.

Through this regulation, the Coast Guard proposes to establish a temporary safety zone. The proposed zone will encompass all waters of the Patapsco River, within a 300 yards radius of a fireworks discharge barge in approximate position latitude 39°16'56" N, longitude 076°36'19" W, located in the Inner Harbor at Baltimore, Maryland, MD. The temporary safety zone will be enforced from 8:30 p.m. through 10:30 p.m. on July 2, 2015.

The effect of this temporary safety zone will be to restrict navigation in the regulated area immediately before, during, and immediately after the fireworks display. Vessels will be allowed to transit the waters of the Patapsco River outside the safety zone.

This rule requires that entry into or remaining in this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. All vessels underway within this safety zone at the time it is implemented are to depart the zone. To seek permission to transit the area of the safety zone, 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 safety zone can be contacted on Marine Band Radio VHF-FM channel 16 (156.8 MHz). Federal, state, and local agencies may assist the Coast Guard in the enforcement of the safety zone. The Coast Guard will issue notices to the maritime community to further publicize the safety zone and notify the public of changes in the status of the zone. Such notices will continue until the event is complete.

#### E. Regulatory Analyses

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

##### 1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of

Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

Although this regulation would restrict access to this area, the effect of this proposed rule will not be significant because: (i) The safety zone will only be in effect from 8:30 p.m. through 10:30 p.m. on July 2, 2015, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) although the safety zone will apply to certain portions of the Inner Harbor, smaller vessel traffic will be able to transit safely around the safety zone.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 will not have a significant economic impact on a substantial number of small entities. This proposed rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to operate or transit through or within, or anchor in, the safety zone during the enforcement period. This proposed safety zone will not have a significant economic impact on a substantial number of small entities for the reasons provided under Regulatory Planning and Review.

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.

## 3. 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. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

## 4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

## 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rule does not have implications for federalism.

## 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## 7. 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

## 8. Taking of Private Property

This proposed rule would 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.

## 9. 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.

## 10. Protection of Children From Environmental Health Risks

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.

## 11. 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.

## 12. Energy Effects

This proposed rule is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

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

## 14. Environment

We have analyzed this proposed 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 made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a temporary safety zone for a fireworks display. The fireworks are launched from navigable waters of the United States and may negatively impact the safety or other interests of waterway users and near shore activities in the event area. The activity includes fireworks launched

from barges near the shoreline that generally rely on the use of navigable waters as a safety buffer to protect the public from fireworks fallouts and premature detonations. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are 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.

#### 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 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0315 to read as follows:

##### § 165.T05–0315 Safety Zone for Fireworks Display, Patapsco River, Inner Harbor; Baltimore, MD.

(a) *Location*. The following area is a safety zone: All waters of the Patapsco River, within a 300 yards radius of a fireworks discharge barge in approximate position latitude 39°16'56" N, longitude 076°36'19" W, located in the Inner Harbor at Baltimore, Maryland. All coordinates refer to datum NAD 1983.

(b) *Regulations*. The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety 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 as directed while within the zone.

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

(c) *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 safety zone described in paragraph (a) of this section.

(d) *Enforcement period*. This section will be enforced from 8:30 p.m. through 10:30 p.m. on July 2, 2015.

Dated: April 28, 2015.

**Kevin C. Kiefer,**

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

[FR Doc. 2015–11190 Filed 5–7–15; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 165

[Docket Number USCG–2015–0188]

RIN 1625–AA00

##### Safety Zones; Misery Challenge, Manchester Bay, Manchester, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard is proposing to establish a temporary safety zone in Manchester Bay to be enforced during the Misery Challenge marine event, which will involve swimmers, kayakers, and stand-up paddlers. This safety zone

would ensure the protection of the event participants, support vessels, and maritime public from the hazards associated with the event. Vessels will be prohibited from entering into, transiting through, mooring, or anchoring within this safety zone during periods of enforcement unless authorized by the Coast Guard Sector Boston Captain of the Port (COTP) or the COTP's designated representative.

**DATES:** Comments and related material must be received by the Coast Guard on or before June 8, 2015. Requests for public meetings must be received by the Coast Guard on or before May 15, 2015.

**ADDRESSES:** You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* 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. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, contact Mr. Mark Cutter, Coast Guard Sector Boston Waterways Management Division, telephone 617–223–4000, email [Mark.E.Cutter@uscg.mil](mailto:Mark.E.Cutter@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

##### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS Department of Homeland Security  
CFR Code of Federal Regulation  
FR Federal Register  
NPRM Notice of Proposed Rulemaking  
NAD 83 North American Datum of 1983

##### A. 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.