

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 procedure; and related management system practices) that are developed or adopted by voluntary consensus standards bodies.

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

### Environment

We have analyzed this rule under Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone; therefore, paragraph (34)(g) of the Instruction applies.

A final “Environmental Analysis Check List” and a final “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, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 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. A new temporary § 165.T09–0491 is added as follows:

### § 165.T09–0491 Safety Zone; Sigma Financial Fireworks, Lake Huron, Mackinac Island, MI.

(a) *Location.* The following area is a temporary safety zone: All waters of Lake Huron within a 1,000-foot radius from the Fireworks launch site with its center in position 45°50′40″ N, 084°36′10″ W. [DATUM: NAD 83].

(b) *Effective period.* This regulation is effective from 9 p.m. to 11:59 p.m. on June 28, 2008.

(c) *Regulations.*

(1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Sault Ste. Marie, or on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Sault Ste. Marie or his on-scene representative.

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Sault Ste. Marie or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Sault Ste. Marie or his on-scene representative.

Dated: June 11, 2008.

**M.J. Huebschman,**

*Captain, U.S. Coast Guard, Captain of the Port Sault Ste. Marie.*

[FR Doc. E8–14049 Filed 6–20–08; 8:45 am]

**BILLING CODE 4910–15–P**

### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2008–0421]

RIN 1625–AA00

#### Safety Zone: Central Massachusetts Swim Events

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing safety zones for four swimming events in the Captain of the Port Boston zone. This rule is intended to restrict vessels from portions of water during events that pose a hazard to public safety. The safety zone is necessary to protect participants and vessels from the hazards associated with a swim event.

**DATES:** This rule is effective for various events from June 15, 2008 through July 12, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–0421 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: 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, and U.S. Coast Guard, Sector Boston, 427 Commercial Street, Boston, MA 02019 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call Chief Petty Officer Eldridge McFadden at 617–223–3000. 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. The logistics with respect to the events were not provided to the Coast Guard with sufficient time to draft and publish an NPRM, making publication of a Notice of Proposed Rulemaking for this temporary regulations impractical and contrary to the public interest. In addition, the swim events are scheduled

to occur on June 15, June 29, July 11 and July 12, 2008, and any delay in the regulation's effective date would be contrary to the public interest since the safety zones are needed to protect swimmers and the maritime public from the dangers associated with vessels transiting portions of Boston Harbor and Cohasset Harbor during the swim events.

For the same reasons, 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**.

### **Background and Purpose**

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with swim events. Swimming events pose significant risks to public safety and property because of the combination of numerous swimmers, high-speed vessels, and potentially congested waterways.

### **Discussion of Rule**

The safety zones established are necessary to ensure the safety of vessels and people during events in the Captain of the Port Boston area of responsibility, which may pose a hazard to the public. The safety zones described in subparagraph (a) for this regulation will be enforced only immediately before and during the event. The Captain of the Port Boston will inform the public by all appropriate means including Broadcast Notice to Mariners, Local Notice to Mariners, and on-scene Coast Guard or Coast Guard Auxiliary units.

### **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.

The Coast Guard's implementation of these safety zones will be of short duration and designed to minimize the impact on navigable waters. These safety zones will only be enforced immediately before and during the time the swimmers are in the water. Furthermore, these safety zones have

been designed to allow vessels to transit unrestricted to portions of the waterway not affected by the safety zone. The Coast Guard expects insignificant adverse impact to mariners from the activation of this safety zone.

### **Small Entities**

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the areas designated as safety zones in subparagraphs (a) during the date and time the safety zones are being enforced. These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zones in this rule would be in effect for short periods, and vessels may pass outside the zone with the permission of the Captain of the Port.

### **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 Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final environmental analysis checklist and a final 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, and 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 temporary § 165.T01–0421 to read as follows:

#### **§ 165.T–01–0421 Safety Zones: Central Massachusetts Swim Events.**

(a) Location. The following swim events include safety zones as described herein:

(1) Cohasset Triathlon, Sandy Beach, Cohasset, MA

(i) All waters in the vicinity of Cohasset Harbor, from surface to bottom, within a 200-yard radius around Sandy Beach.

(ii) *Effective Date.* This rule will be effective from 7:30 a.m. through 9 a.m. on June 29, 2008.

(2) Swim Across America, Boston, MA to Boston Light, MA

(i) All waters of Boston Harbor, from surface to bottom, within a 100-yard radius around the swimmers swimming from Rowes Wharf to Boston Light.

(ii) *Effective Date.* This rule will be effective from 7 a.m. through 3 p.m. on July 11, 2008.

(3) Swim Across America, Nantasket Beach, Hull, MA

(i) All waters of Nantasket Beach, from surface to bottom, within a 100-yard radius around Nantasket Beach.

(ii) *Effective Date.* This rule will be effective from 9 a.m. through 11 a.m. on July 12, 2008.

(4) Charles River One Mile Swim, Charles River, Boston, MA

(i) All waters of Charles River, from surface to bottom, between the Longfellow Bridge and the Harvard bridge.

(ii) *Effective Date.* This rule will be effective from 7:45 a.m. through 9:15 a.m. on June 15, 2008.

(b) Definition. As used in this section, designated representative means any Coast Guard commissioned, warrant, or petty officer, or any federal, state, or local law enforcement officer authorized to enforce this regulation on behalf of

the Coast Guard Captain of the Port (COTP).

(c) Regulations. (1) In accordance with the general regulations in section 165.23 of this part, entry into or remaining in the safety zones described in paragraph (a) of this section is prohibited unless authorized by the COTP Boston, or the COTP's designated representative.

(2) Persons desiring to transit within the safety zones established in this section may contact the COTP at telephone number 617–223–3008 or via on-scene patrol personnel on VHF channel 16 to seek permission to do so. If permission is granted, all persons and vessels must comply with the instructions of the COTP or his or her designated representative.

Dated: June 12, 2008.

**Gail P. Kulisch,**

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

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

**[Docket No. USCG–2008–0272]**

**RIN 1625–AA87**

#### **Security Zone; Patapsco River, Middle Branch, Baltimore, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone on certain waters of the Patapsco River, Middle Branch, in Baltimore Harbor, Baltimore, Maryland, during the USS STERETT Commissioning ceremony. The security zone is necessary to provide for the security of the USS STERETT and the safety of life of event participants, spectators and mariners on U.S. navigable waters during the event. Entry into the zone is prohibited unless authorized by the Captain of the Port or a designated representative.

**DATES:** This rule is effective from 4 p.m. through 11 p.m. on August 9, 2008.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–0272 and are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140,