

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.*

[FR Doc. E8–14128 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–2008–0272]**

**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,

1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and the Commander, U.S. Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Building 70, Waterways Management Division, Baltimore, Maryland 21226–1791 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call Mr. Ronald Houck, at Coast Guard Sector Baltimore, Waterways Management Division, at telephone number (410) 576–2674 or (410) 576–2693. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On April 23, 2008, we published a notice of proposed rulemaking (NPRM) entitled “Security Zone; Patapsco River, Middle Branch, Baltimore, MD” in the **Federal Register** (73 FR 21883). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

The ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports and waterways to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide. Due to increased awareness that future terrorist attacks are possible the Coast Guard, as lead federal agency for maritime homeland security, has determined that the Coast Guard Captain of the Port must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while still maintaining our freedoms and sustaining the flow of commerce. This security zone is part of a comprehensive port security regime designed to safeguard human life, vessels, and waterfront facilities against sabotage or terrorist attacks.

The Captain of the Port Baltimore is establishing a security zone to address the aforementioned security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against the USS STERETT and a large number of participants at the South Locust Point Marine Terminal, and the surrounding waterfront areas

and communities, in Baltimore, Maryland. The security zone is necessary to safeguard life and property on the navigable waters immediately before, during, and after the scheduled event. This zone will help the Coast Guard prevent vessels or persons from bypassing the security measures established on shore for the ceremony and engaging in waterborne terrorist actions during the highly-publicized event.

**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. Other than two technical changes—revising the temporary section number (from § 165.T08–0272 to § 165.T05–0272) so that it reflects security zone in the Coast Guard’s Fifth District, and revising the word “rule” to “section” in the effective period paragraph—we have made no changes from the proposed rule.

**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. There is little vessel traffic associated with recreational boating and commercial fishing in the area during the effective period.

**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 affects the following entities, some of which might be small entities: The owners or operators of vessels

intending to transit or anchor in a portion of the Patapsco River, Middle Branch, from 4 p.m. through 11 p.m. on August 9, 2008. Smaller vessels not constrained by their draft, which are more likely to be small entities, may transit around the security zone. The duration of the security zone will be limited to seven hours. Because the zone is of limited size and duration, it is expected that there will be minimal disruption to the maritime community. Before the effective period, we will issue maritime advisories widely available to users of the river.

**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 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. This rule establishes a security zone.

A final environmental analysis checklist and a final categorical exclusion determination will be 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; 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.T05–0272 to read as follows:

#### **§ 165.T05–0272 Security Zone; Patapsco River, Middle Branch, Baltimore, MD.**

(a) *Location.* The following area is a security zone: All waters of the Patapsco

River, Middle Branch, from surface to bottom, encompassed by lines connecting the following points, beginning at 39°15'40" N, 076°35'23" W, thence to 39°15'24" N, 076°35'18" W, thence to 39°15'25" N, 076°35'54" W, thence to 39°15'43" N, 076°35'58" W, located approximately 1,600 yards east of the Hanover Street (SR–2) Bridge. These coordinates are based upon North American Datum 1983.

(b) *Definitions.* As used in this section, for purposes of enforcing the security zone identified in paragraph (a) of this section, *designated representative* means on-scene Coast Guard patrol personnel, including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by the Captain of the Port Baltimore.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones found in § 165.33 of this part.

(2) Entry into or remaining in the security zone described in paragraph (a) of this section is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore, Maryland or his or her designated representative.

(3) Persons desiring to transit the area of the security zone may contact the Captain of the Port Baltimore at telephone number 410–576–2674 or on marine band radio VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. On-scene Coast Guard patrol personnel operating Coast Guard vessels may be contacted on marine band radio VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. Upon being hailed by a U.S. Coast Guard 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 or her designated representative.

(d) *Effective period.* This section is effective from 4 p.m. through 11 p.m. on August 9, 2008.

Dated: June 12, 2008.

**Brian D. Kelley,**

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

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