

Act of 1969 (42 U.S.C. 4321–4370f), and have made a 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. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. This rule is categorically excluded under paragraph L53 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. Paragraph L53 pertains to congressionally mandated regulations designed to improve or protect the environment. This rule adjusts the limits of liability for vessels, deepwater ports, and onshore facilities to reflect significant increases in the CPI using the methodology established in 33 CFR 138.40(a) and mandated by statute.

List of Subjects in 33 CFR Part 138

Hazardous materials transportation, Insurance, Oil pollution, Reporting and recordkeeping requirements, Surety bonds, Vessels, Water pollution control.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 138 as follows:

PART 138—FINANCIAL RESPONSIBILITY FOR WATER POLLUTION (VESSELS) AND OPA 90 LIMITS OF LIABILITY (VESSELS, DEEPWATER PORTS AND ONSHORE FACILITIES)

■ 1. The authority citation for part 138 continues to read as follows:

Authority: 6 U.S.C. 552(d); 33 U.S.C. 2704, 2716, 2716a; 42 U.S.C. 9608, 9609; E.O. 12580, Sec. 7(b), 3 CFR, 1987 Comp., p. 193; E.O. 12777, Secs. 4 and 5, 3 CFR, 1991 Comp., p. 351, as amended by E.O. 13286, Sec. 89, 3 CFR, 2004 Comp., p. 166, and by E.O. 13638, Sec. 1, 3 CFR, 2014 Comp., p. 227; Department of Homeland Security Delegation Nos. 00170.1, Revision 01.2, and 5110, Revision 01. Section 138.40 also issued under the authority of 46 U.S.C. 2103 and 14302.

Subpart B—OPA 90 Limits of Liability (Vessels, Deepwater Ports and Onshore Facilities)

§ 138.230 [Amended]

■ 2. Amend § 138.230 as follows:

- a. In paragraph (a)(1)(i), remove the text “\$3,700 per gross ton or \$27,422,200” and add, in its place, the text “\$4,000 per gross ton or \$29,591,300”;
- b. In paragraph (a)(1)(ii), remove the text “\$2,300 per gross ton or \$19,943,400” and add, in its place, the

text “\$2,500 per gross ton or \$21,521,000”;

- c. In paragraph (a)(1)(iii), remove the text “\$3,700 per gross ton or \$7,478,800” and add, in its place, the text “\$4,000 per gross ton or \$8,070,400”;
- d. In paragraph (a)(1)(iv), remove the text “\$2,300 per gross ton or \$4,985,900” and add, in its place, the text “\$2,500 per gross ton or \$5,380,300”;
- e. In paragraph (a)(2), remove the text “\$1,200 per gross ton or \$997,100” and add, in its place, the text “\$1,300 per gross ton or \$1,076,000”;
- f. In paragraph (b)(1) remove the text “\$672,514,900” and add, in its place, the text “\$725,710,800”;
- g. In paragraph (b)(2)(i), remove the text “\$102,245,000” and add, in its place, the text “\$110,332,600”; and
- h. In paragraph (c), remove the text “\$672,514,900” and add, in its place, the text “\$725,710,800”.

Dated: December 9, 2022.

Jo-Ann F. Burdian,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Response Policy.

[FR Doc. 2022–27750 Filed 12–22–22; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0806]

RIN 1625–AA00

Safety Zones in Reentry Sites; Jacksonville, Daytona, Cape Canaveral, Tampa, and Tallahassee, Florida

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is re-establishing five temporary safety zones for the safe splashdown and recovery of reentry vehicles launched by Space Exploration Technologies Corporation (SpaceX) in support of National Aeronautics and Space Administration (NASA) and privately chartered missions. The temporary safety zones are located within the Seventh Coast Guard District area of responsibility (AOR) offshore of Jacksonville, Daytona, Cape Canaveral, Tampa, and Tallahassee, Florida. This action is necessary to protect vessels and waterway users from the potential hazards created by reentry vehicle splashdowns and recovery operations in

the U.S. Exclusive Economic Zone (EEZ). It is also necessary to provide for the safe recovery of reentry vehicles, and any personnel involved in reentry services, after the splashdown. This rule prohibits U.S.-flagged vessels from entering any of the temporary safety zones unless authorized by the District Commander of the Seventh Coast Guard District, the relevant Captain of the Port, or a designated representative.

DATES: This rule is effective from January 1, 2023, through February 4, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2022–0806 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Ryan Gilbert, District 7 Waterways Division (dpw), U.S. Coast Guard; telephone (305) 415–6748, email Ryan.A.Gilbert@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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| AOR | Area of Responsibility |
| AIS | Automatic Identification System |
| BNM | Broadcast Notice to Mariners |
| CFR | Code of Federal Regulations |
| COTP | Captain of the Port |
| DHS | Department of Homeland Security |
| EEZ | Exclusive Economic Zone |
| FAA | Federal Aviation Administration |
| FL | Florida |
| FR | Federal Register |
| GA | Georgia |
| MSIB | Marine Safety Information Bulletin |
| NASA | National Aeronautics and Space Administration |
| NMFS | National Marine Fisheries Service |
| NOAA | National Oceanic and Atmospheric Administration |
| NM | Nautical Mile |
| NPRM | Notice of Proposed Rulemaking |
| § | Section |
| SpaceX | Space Exploration Technologies Corporation |
| U.S. | United States |
| U.S.C. | United States Code |
| USFWS | U.S. Fish and Wildlife Service |

II. Background Information and Regulatory History

On January 1, 2021, the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283) (Authorization Act) was enacted. Section 8343 (134 Stat. 4710) calls for the Coast Guard to conduct a two-year pilot program to establish and implement a process to establish safety zones to address special activities in the U.S. Exclusive

Economic Zone (EEZ).¹ These special activities include space activities² carried out by United States (U.S.) citizens. Terms used to describe space activities, including *launch*, *reentry site*, and *reentry vehicle*, are defined in 51 U.S.C. 50902, and in this document.

The Coast Guard has long monitored space activities impacting the maritime domain and taken actions to ensure the safety of vessels and the public as needed during space launch³ operations. In conducting this activity, the Coast Guard engages with other government agencies, including the Federal Aviation Administration (FAA) and National Aeronautics and Space Administration (NASA), and private space operators, including Space Exploration Technologies Corporation (SpaceX). This engagement is necessary to ensure statutory and regulatory obligations are met to ensure the safety of launch operations and waterway users.

During this engagement, the Coast Guard was informed of space reentry vehicles and recovery operations in the U.S. EEZ. Section 50902 of 51 U.S.C. defines “reentry vehicle” as a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact. SpaceX, a U.S. company, identified five reentry sites⁴ within the U.S. EEZ of the Coast Guard District Seven area of responsibility (AOR) expected to be used for the splashdown and recovery of reentry vehicles. All these sites are off the coast of Florida (FL) and Georgia (GA)—three are located in the Atlantic Ocean and two are located in the Gulf of Mexico.

On August 4, 2022, the Coast Guard published a temporary final rule (TFR)⁵ in the **Federal Register** establishing five temporary safety zones for the safe splashdown and recovery of reentry vehicles launched by SpaceX in support of NASA missions. See 33 CFR 165.T07–0289. These temporary

regulations expire on December 31, 2022.

On October 21, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** titled, “Safety Zones in Reentry Sites; Jacksonville, Daytona, Cape Canaveral, Tampa, and Tallahassee, Florida.”⁶ In the NPRM, we stated the purpose of the rulemaking was to create five temporary safety zones off the coast of FL and GA that would ensure the protection of vessels and waterway users in the U.S. Exclusive Economic Zone (EEZ)⁷ from the potential hazards created by reentry vehicle splashdowns⁸ and recovery operations, and the safe recovery of reentry vehicles and personnel involved in reentry services.⁹ The NPRM invited comments on the proposed rule. During the comment period that ended November 21, 2022, we received four comment submissions.

With this TFR, the Coast Guard is ensuring the five temporary safety zones created by this TFR are in place for the safe reentry vehicle splashdown and recovery of reentry vehicles missions launched by SpaceX in support of NASA missions, and privately chartered missions during the remaining period of the pilot program, from January 1, 2023, through February 4, 2024.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under section 8343 of the Authorization Act. The Seventh District Commander has determined there are potential hazards in the U.S. EEZ created by reentry vehicle splashdowns and recovery operations, and the safe recovery of reentry vehicles and personnel involved in reentry services. The purpose of this rule is to ensure safety of vessels, reentry vehicles, personnel involved in reentry services and the navigable waters in the safety zone, whenever a splashdown occurs.

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** because this rule is needed to ensure there is no lapse in coverage when the existing regulations in § 165.T07–0289 expire on December 31, 2022. Delaying the effective date of this

rule would be impracticable and contrary to the public interest because the Cargo Resupply Mission 26 (CRS–26) is scheduled to splashdown in early January 2023, and the rule needs to be effective before the splashdown occurs. Delaying the enforcement of this rule to allow a 30-day effective period would inhibit the Coast Guard’s ability to fulfill its mission to ensure the protection of vessels and waterway users in the U.S. EEZ from the potential hazards created by reentry vehicle splashdowns and recovery operations, and the safe recovery of reentry vehicles and personnel involved in reentry services.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received four comment submissions on our NPRM that published in the **Federal Register** on October 21, 2022. The commenters expressed concerns regarding commercial fisheries and related economic impacts, potential environmental impacts, and the Coast Guard’s notification process. These issues are discussed below.

Several commenters asked whether the Coast Guard had engaged with the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS); inquired whether the reentry vehicle splashdown and recovery operations complied with the National Environmental Policy Act (NEPA); requested further analyses on the potential releases of hazardous substances by reentry vehicles; and inquired about the potential impacts to the marine environment and commercial fisheries stocks.

While the Coast Guard did not engage NOAA NMFS, the Coast Guard prepared a preliminary Record of Environmental Consideration (REC) at the NPRM stage and a final REC for this rulemaking stage (see section F. Environment in this document). These reviews aided the Coast Guard in determining that fisheries stocks would not be impacted. Furthermore, this rulemaking involves the creation of temporary safety zones that will only be activated periodically for relatively short time periods. In most cases the safety zones will be activated for four hours or less, therefore any impact on fisheries stocks would be insignificant.

As discussed in the environmental section of our NPRM and in this document, the Coast Guard determined this rulemaking is categorically

¹ The Coast Guard defines the U.S. *exclusive economic zone* in 33 CFR 2.30(a). *Territorial sea* is defined in 33 CFR 2.22.

² *Space Activities* means space activities, including launch and reentry, as such terms are defined in section 50902 of Title 51, United States Code, carried out by United States citizens.

³ The term *launch* is defined in 51 U.S.C. 50902.

⁴ *Reentry site* means the location on Earth to which a reentry vehicle is intended to return (as defined in a license the FAA Administrator issues or transfers under this chapter).

⁵ See Coast Guard temporary final rule titled, “Safety Zones in Reentry Sites; Jacksonville, Daytona, Cape Canaveral, Tampa, and Tallahassee, Florida” (87 FR 47626).

⁶ 87 FR 63981.

⁷ The Coast Guard defines the U.S. *exclusive economic zone* in 33 CFR 2.30(a). *Territorial sea* is defined in 33 CFR 2.22.

⁸ *Splashdown* refers to the landing of a reentry vehicle into a body of water.

⁹ *Reentry Services* means (1) activities involved in the preparation of a reentry vehicle and payload, crew (including crew training), government astronaut, or space flight participant, if any, for reentry; and (2) the conduct of a reentry.

excluded (CATEX)¹⁰ under NEPA from undergoing a detailed environmental analysis in an Environmental Assessment or Environmental Impact Statement because the activities have been determined to normally not have the potential, individually or cumulatively, to have a significant effect on the human environment. Reentry vehicle splashdown activities are licensed by the FAA. During the FAA licensing process, and in various rulemakings and related environmental reviews promulgated by the FAA, many of the issues related to fishery and environmental concerns were addressed. Most notably, the FAA completed an extensive Environmental Assessment (FAA EA) in July of 2020.¹¹ In that EA, the FAA consulted with the U.S. Fish and Wildlife Service (USFWS) and the NMFS. The Coast Guard is establishing these temporary safety zones to ensure the protection of vessels and waterway users in the U.S. EEZ from the potential hazards created by reentry vehicle splashdowns and recovery operations, and the safe recovery of reentry vehicles and personnel involved in reentry services.

Three commenters expressed concerns about the economic impact on commercial vessels of various sizes and types, the economic impact on small fishing businesses, along with other impacts on recreational vessels due to closures for reentry or recovery operations. This rulemaking will not have a significant impact on any type of commercial or recreational fishing vessel activity because all vessels would be able to transit around the activated temporary safety zone, during the recovery, and the recovery would be relatively short in duration. The activated temporary safety zone will typically be enforced for approximately four hours, and no more than eight hours in extremely extenuating circumstances. The Coast Guard is taking significant actions to minimize, to the extent possible, the impact on commercial and recreational waterway use. Ultimately the Coast Guard deems the benefits and needs for the creation of the five temporary safety zones, to provide protection to vessels and waterway users from the potential hazards created by reentry vehicle splashdowns and recovery operations while providing for the safe recovery of reentry vehicles, and any personnel involved in reentry services, to exceed

the indirect impacts on the entities the commenters noted.

Several commenters expressed concerns about public notification. While it is not necessary to modify the rule's regulatory text, additional explanation of the intended notification methods is merited. Four commenters suggested expanding the means to notify fisherman beyond the proposed Broadcast Notice to Mariners (BNM) on VHF-FM 16, and/or Marine Safety Information Bulletins (MSIB) to optimize notification to commercial and recreational fishing vessels. The Coast Guard will continue to provide proper notification to all marine transportation system users through available platforms to maintain timely and current information with regards to space launch and recovery operations. If waterway users are concerned, they will not be able to get this information in a timely manner, or they will not see the notices or broadcasts the Coast Guard distributes and publishes, they have the ability sign up for email updates on the Coast Guard's Navigation Center's website.¹²

Three commenters requested that reentry safety zones be clearly identified on digital navigation or Automatic Identification System (AIS) charts for all waterway users to have access to, to reduce the need to input coordinates each time a notification is issued. The Coast Guard is evaluating different options to provide mariners with an efficient way including, plotting the temporary safety zones in the NOAA charts and AIS broadcasts.

Two commenters inquired about how they would be notified when the temporary safety zones are enforced. Upon notification of a reentry vehicle's reentry, the Coast Guard would activate all five temporary safety zones to serve as a cautionary warning that a reentry vehicle could splashdown in one of the five temporary safety zones during the specified time period. However, only one of the five temporary safety zones will be enforced for the window of time of the reentry vehicle splashdown and recovery. Once the Coast Guard receives confirmation from NASA or SpaceX, where the reentry vehicle will splashdown, usually within 24 hours of the reentry vehicle splashdown, the public will be notified that only one of the five temporary safety zones will be enforced, all other temporary safety zones will be deactivated. The notification of enforcement that the Coast Guard publishes in the **Federal Register** will set out the specific times

that the one temporary safety zone will be closed (enforced), and it will typically be no more than six hours. This will allow the Coast Guard to ensure the activated temporary safety zone is cleared prior to the reentry vehicle's reentry. After the Coast Guard receives notification that the reentry vehicle's recovery operation is complete, the temporary safety zone enforcement will be deactivated, and mariners will be notified of the deactivation via VHF-FM Channel 16.

The Coast Guard identified in an internal review that the Jacksonville reentry site, as provided by NASA and SpaceX, straddles the border of the Jacksonville COTP zone and the Savannah COTP zone. The coordinates of the Jacksonville reentry site safety zone itself has not changed. Moving forward, the COTP Savannah will follow the same notification procedures as the COTP Jacksonville, and the COTP St. Petersburg, at least as it pertains to the portion of the safety zone that falls under the Savannah COTP zone. The only change in regulatory text to this rule, from the proposed rule in the NPRM, is the addition of the Captain of the Port of Savannah to the definition of Captain of the Port.

When discussing all these issues it is important to reiterate that all these safety zones are part of a pilot program, and this is a newly established authority for the Coast Guard. This means, all these processes are new, and part of a larger Coast Guard initiative to establish how to best regulate these types of issues. With every recovery operation, the Coast Guard seeks to further streamline the process, and make it more efficient for the public, and those operating reentry vehicles because at the end of the pilot program the Coast Guard is required to brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.¹³

With this TFR, the Coast Guard is ensuring that the five temporary safety zones created by this TFR are in place for the safe reentry vehicle splashdown and recovery of reentry vehicles launched by SpaceX in support of NASA and privately chartered missions from January 1, 2023, through February 4, 2024.

The temporary safety zones are in the U.S. EEZ within the Coast Guard District Seven AOR offshore of Jacksonville, Daytona, and Cape Canaveral, FL, in the Atlantic Ocean, and Tampa and Tallahassee, FL, in the Gulf of Mexico. The rule prohibits U.S.-

¹⁰ This rule is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1.

¹¹ https://www.faa.gov/space/environmental/nepa_docs.

¹² <https://www.navcen.uscg.gov/broadcast-notice-to-mariners>.

¹³ Section 8343 of the Authorization Act.

flagged vessels from entering any of the safety zones unless authorized by the District Commander, a Coast COTP, or a designated representative. Because the safety zones are within the U.S. EEZ, only U.S.-flagged vessels will be subject to enforcement. However, all foreign-flagged vessels are encouraged to remain outside the safety zones.

Three of the five temporary safety zones are located off the coast of FL and GA in the Atlantic Ocean in the following areas: (1) Approximately 65 nautical miles (NM) northeast from Jacksonville; (2) 29 NM northeast from Daytona; and (3) 17 NM east from Port Canaveral. The remaining two temporary safety zones are located off the coast of FL in the Gulf of Mexico in the following areas: (1) Approximately 58 NM northwest from Tampa Bay; and (2) 43 NM south from Tallahassee. The Jacksonville, Daytona, Cape Canaveral, and Tampa safety zones have an approximate area of 256 square miles, and are diamond shaped with the top point of the diamond pointing to the North. The Tallahassee safety zone is approximately 59 square miles in size and is triangular in shape. The Tallahassee safety zone, as provided by NASA and SpaceX, is the same size and shape as the other four safety zones; however, only a portion of the safety zone is within the jurisdiction of the Seventh Coast Guard District, so only the 59 square miles is included in this rule. The remaining portion of the safety zone falls within the Coast Guard District Eight AOR.

The coordinates for the safety zones are based on the furthest north, east, south, and west points of the reentry vehicles splashdown and are determined from data and modeling by SpaceX and NASA. The coordinates take into account the trajectories of the reentry vehicles coming out of orbit, the potential risk to the public, and the proximity to medical facilities that meet NASA requirements. The specific coordinates for the five temporary safety zones are presented in the regulatory text at the end of this document.

To the extent feasible, the District Commander, COTP,¹⁴ or designated representative will inform the public of the activation of the five temporary safety zones by Notice of Enforcement (NOE) published in the **Federal Register** at least two days before the reentry vehicle splashdown. The NOE will identify the approximate date(s) during

which a reentry vehicle splashdown and recovery operations will occur. The District Commander, or the COTP Savannah, and COTP Jacksonville will issue the NOEs for the safety zone located in Jacksonville. The District Commander, or COTP Jacksonville will issue the NOEs for the safety zone located in Daytona, and Cape Canaveral, FL. The District Commander or COTP St. Petersburg will issue the NOEs for the safety zones located Tampa and Tallahassee, FL.

To the extent possible, twenty-four hours before a reentry vehicle splashdown and recovery operations, the District Commander, COTP, or designated representative will inform the public whether one of the five safety zones will remain activated (subject to enforcement) until announced by BNM on VHF-FM channel 16, and/or MSIB (as appropriate) that the safety zone is no longer subject to enforcement. The specific temporary safety zone to be enforced will be based on varying mission and environmental factors, including atmospheric conditions, sea state, weather, and orbital calculations.

The MSIB will include the geographic coordinates of the activated safety zone, a map identifying the location of the activated safety zone, and information related to potential hazards associated with a reentry vehicle splashdown and recovery operations associated with space activities, including marine environmental and public health hazards, such the release of hydrazine and other potential oil or hazardous substances.

When the safety zone is activated, the District Commander, COTP, or designated representative will be able to restrict U.S.-flagged vessel movement including but not limited to transiting, anchoring, or mooring within the safety zone to protect vessels from hazards associated with space activities. The activated safety zone will ensure the protection of vessels and waterway users from the potential hazards created by reentry vehicle splashdowns and recovery operations. This includes protection during the recovery of a reentry vehicle, and the protection of personnel involved in reentry services and space support vessels.¹⁵

After a reentry vehicle splashdown, the District Commander, COTP, or designated representative will grant general permission to come no closer than 3 NM within the activated safety zone from any reentry vehicle or space

support vessel engaged in the recovery operations. The recovery operations are expected to last approximately one hour. That should allow for sufficient time to let any potential toxic materials clear the reentry vehicle, recovery of the reentry vehicle by the space support vessel, and address any potential medical evacuations for any personnel involved in reentry services that were onboard the reentry vehicle.

Once a reentry vehicle and any personnel involved in reentry services are removed from the water and secured onboard a space support vessel, the District Commander, COTP, or designated representative would issue a BNM on VHF-FM channel 16 announcing the activated safety zone is no longer subject to enforcement. A photograph of a reentry vehicle and space support vessel expected to use the reentry sites are available in the docket.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and scope of the temporary safety zones. The temporary safety zones are limited in size and location to only those areas where reentry vehicles splashdown and recovery operations occur. The safety zones are limited in scope, as vessel traffic would be able to safely transit around the activated safety zone which will only impact a small part of the U.S. EEZ within the Atlantic Ocean and Gulf of Mexico. This rule involves the establishment of five temporary safety zones which will be activated two days before a reentry vehicle splashdown and recovery operations. Twenty-four hours before a reentry vehicle splashdown, the Coast Guard will inform the public whether any of the five temporary safety zones will remain activated. If one of the safety zones remains activated, the safety zone will be enforced for

¹⁴ The Daytona, and Cape Canaveral, FL zones in the COTP Jacksonville AOR, along with a portion of the Jacksonville zone. The remaining portion of the Jacksonville zone is in the COTP Savannah AOR. The zones in the COTP St. Petersburg AOR are Tampa and Tallahassee, FL.

¹⁵ *Space Support Vessel* means any vessel engaged in the support of space activities. These vessels are typically approximately 170 feet in length, have a forward wheelhouse, and are equipped with a helicopter pad and lifting crane.

approximately four hours prior to a reentry vehicle splashdown and remain activated until announced by Broadcast Notice to Mariners on VHF–FM channel 16, and/or Marine Safety Information Bulletin (as appropriate) that the safety zone is no longer subject to enforcement. After the reentry vehicle splashdown, general permission will be granted to come no closer than 3 NM within the activated safety zone. There is a danger associated with fumes from the reentry vehicle after it has splashed down. Once a reentry vehicle and any personnel involved in reentry services are removed from the water and secured onboard a space support vessel, the activated safety zone will no longer be subject to enforcement. The activated safety zone will ensure the protection of vessels and waterway users from the potential hazards created by a reentry vehicle splashdown and recovery operations and the recovery of a reentry vehicle, personnel involved in reentry services, and space support vessel.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 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 rule would not have a significant economic impact on a substantial number of small entities.

The safety zones are only expected to last a few hours from reentry vehicle splashdown to recovery. Vessels will be able to transit around the activated safety zone location during these recoveries. We do not anticipate any significant economic impact resulting from activation of the safety zones.

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.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this 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 call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. 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.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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 rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this 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. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the potential effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast

Guard in complying with the National Environmental Policy Act of 1969 (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 rule involves the establishment of five temporary safety zones which would be activated two days before a reentry vehicle splashdown and recovery operations. Twenty-four hours before a reentry vehicle splashdown, one of the five temporary safety zones would remain activated. If one of the safety zones remains activated, the safety zone will be enforced for approximately four hours prior to a reentry vehicle splashdown and remain activated until announced by BNM on VHF–FM channel 16, and/or MSIB (as appropriate) that the safety zone is no longer subject to enforcement. After a reentry vehicle splashdown, general permission would be granted to come no closer than 3 NM within the activated safety zone. Once a reentry vehicle and any personnel involved in reentry services are removed from the water and secured onboard a space support vessel, the activated safety zone would no longer be subject to enforcement. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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.

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 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: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T07–0806 to read as follows:

§ 165.T07–0806 Safety Zones in Reentry Sites; Jacksonville, Daytona, Cape Canaveral, Tampa, and Tallahassee, Florida.

(a) *Location.* The coordinates used in this paragraph are based on the World Geodetic System (WGS) 1984. The following areas are safety zones:

(1) *Jacksonville site.* All waters from surface to bottom encompassed within a line connecting the following points: Point 1, thence to Point 2, thence to Point 3, thence to Point 4, and then back to Point 1.

TABLE 1 TO PARAGRAPH (a)(1)

| | | |
|---------------|-------------------|--------------|
| Point 1 | 31°06'28" N | 080°15'00" W |
| Point 2 | 30°55'01" N | 080°01'40" W |
| Point 3 | 30°43'30" N | 080°15'00" W |
| Point 4 | 30°55'01" N | 080°28'19" W |

(2) *Daytona site.* All waters from surface to bottom encompassed within a line connecting the following points: Point 1, thence to Point 2, thence to Point 3, thence to Point 4, and then back to Point 1.

TABLE 2 TO PARAGRAPH (a)(2)

| | | |
|---------------|-------------------|--------------|
| Point 1 | 29°59'27" N | 080°40'01" W |
| Point 2 | 29°48'00" N | 080°26'52" W |
| Point 3 | 29°36'32" N | 080°40'01" W |
| Point 4 | 29°48'00" N | 080°53'09" W |

(3) *Cape Canaveral site.* All waters from surface to bottom encompassed within a line connecting the following points: Point 1, thence to Point 2, thence to Point 3, thence to Point 4, and then back to Point 1.

TABLE 3 TO PARAGRAPH (a)(3)

| | | |
|---------------|-------------------|--------------|
| Point 1 | 29°02'27" N | 080°13'48" W |
| Point 2 | 28°51'00" N | 080°00'46" W |
| Point 3 | 28°39'32" N | 080°13'48" W |
| Point 4 | 28°51'00" N | 080°26'49" W |

(4) *Tampa site.* All waters from surface to bottom encompassed within a line connecting the following points: Point 1, thence to Point 2, thence to Point 3, thence to Point 4, and then back to Point 1.

TABLE 4 TO PARAGRAPH (a)(4)

| | | |
|---------------|-------------------|--------------|
| Point 1 | 28°17'27" N | 083°54'00" W |
| Point 2 | 28°06'00" N | 083°41'02" W |
| Point 3 | 27°54'32" N | 083°54'00" W |
| Point 4 | 28°06'00" N | 084°06'57" W |

(5) *Tallahassee site.* All waters from surface to bottom encompassed within a line connecting the following points:

Point 1, thence to Point 2, thence to Point 3, and then back to Point 1.

TABLE 5 TO PARAGRAPH (a)(5)

| | | |
|---------------|-------------------|--------------|
| Point 1 | 29°22'38" N | 084°05'20" W |
| Point 2 | 29°16'58" N | 083°58'55" W |
| Point 3 | 29°06'20" N | 084°11'12" W |

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

District Commander means Commander of the Seventh Coast Guard District.

Captain of the Port means the Captain of the Port of Jacksonville, the Captain of the Port of Savannah, or the Captain of the Port of St. Petersburg.

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel; Coast Guard Representatives in the Merrill Operations Center; and other officers designated by the District Commander of the Seventh Coast Guard District or cognizant COTP.

Reentry Services means activities involved in the preparation of a reentry vehicle and payload, crew (including crew training), government astronaut, or space flight participant, if any, for reentry; and the conduct of a reentry.

Reentry vehicle means a vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact.

Space Support Vessel means any vessel engaged in the support of space activities. These vessels are typically approximately 170 feet in length, have a forward wheelhouse, and are equipped with a helicopter pad and lifting crane.

Splashdown means the landing of a reentry vehicle into a body of water.

(c) *Regulations.* (1) Because the safety zones described in paragraph (a) of this section are within the U.S. Exclusive Economic Zone, only U.S.-flagged vessels are subject to enforcement. All foreign-flagged vessels are encouraged to remain outside the safety zones.

(2) In accordance with the general regulations in 33 CFR part 165, subpart C, no U.S.-flagged vessel may enter the safety zones described in paragraph (a) of this section unless authorized by the District Commander, COTP, or designated representative, except as provided in paragraph (d)(3) of this section.

(d) *Notification of enforcement.* (1) To the extent feasible, the District Commander, COTP, or designated representative will inform the public of

the activation of the five safety zones described in paragraph (a) of this section by Notice of Enforcement published in the **Federal Register** at least two days before the splashdown.

(2) To the extent possible, twenty-four hours before a reentry vehicle splashdown, the District Commander, COTP, or designated representative will inform the public if one of the five safety zones described in paragraph (a) will remain activated until announced by Broadcast Notice to Mariners on VHF–FM channel 16, and/or Marine Safety Information Bulletin (as appropriate) that the safety zone is no longer subject to enforcement.

(3) After a reentry vehicle splashdown, the District Commander, COTP, or designated representative will grant general permission to come no closer than 3 nautical miles of any reentry vehicle or space support vessel engaged in the recovery operations, within the activated safety zone described in paragraph (a) of this section.

(4) Once a reentry vehicle, and any personnel involved in reentry service, are removed from the water and secured onboard a space support vessel, the District Commander, COTP, or designated representative will issue a Broadcast Notice to Mariners on VHF–FM channel 16 announcing the activated safety zone is no longer subject to enforcement.

(e) *Effective period.* This section is effective from January 1, 2023, through February 4, 2024.

Dated: December 16, 2022.

Brendan C. McPherson,
Rear Admiral, U.S. Coast Guard, Commander,
Seventh Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0217]

RIN 1625–AA00

Safety Zone; Fireworks Display, Sea Otter Point, Port of Valdez, AK

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters from the surface to seabed, within a 150 yard radius of the fireworks launching point located at Sea