



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2019-0738]

RIN 1625-AA87

Security Zone; Inner Harbor, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone encompassing certain waters of Baltimore's Inner Harbor. This security zone is needed to prevent waterside threats during an event held at the Baltimore Marriott Waterfront Hotel in Baltimore, MD, September 12–14, 2019. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Maryland-National Capital Region or his designated representative.

DATES: This rule is effective from 11:59 a.m. on September 12, 2019, through 4 p.m. on September 14, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0738 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ron Houck, Sector Maryland-National Capital Region Waterways

Management Division, U.S. Coast Guard; telephone 410-576-2674, email

Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP	Captain of the Port
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The Coast Guard was unable to publish an NPRM and hold a comment period for this rulemaking due to the short time period between event planners notifying the Coast Guard of the event and publication of this security zone. It is necessary for the Coast Guard to establish this security zone for this event to ensure the appropriate level of protection for high-ranking United States officials and the public. Delaying the rulemaking to allow for opportunity for comment would be contrary to the security zone’s intended objectives of protecting

high-ranking United States officials and the public, as it would introduce vulnerability to their safety and security.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest for the same reasons discussed above for forgoing notice and comment.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP Maryland-National Capital Region has determined that a security zone is necessary to protect high-ranking United States officials and the public, mitigate potential terrorist acts, and enhance public and maritime safety and security in order to safeguard life, property, and the environment on or near the navigable waters near the Baltimore Marriott Waterfront Hotel in Baltimore, MD.

IV. Discussion of the Rule

This rule establishes a security zone from 11:59 a.m. on September 12, 2019, until 4 p.m. on September 14, 2019. The security zone will cover all navigable waters of the Inner Harbor, within the following coordinates: from Inner Harbor Pier 6 at position latitude 39°16'58.7"N, longitude 076°36'16.0"W; thence to latitude 39°16'55.3"N, longitude 076°36'14.2"W; thence to latitude 39°16'53.6"N, longitude 076°36'12.5"W; thence to the Harbor East Marina pier at latitude 39°16'52.9"N, longitude 076°36'10.0"W; thence northward along the pier to the shoreline at latitude 39°16'55.5"N, longitude 076°36'10.2"W; thence northward along the eastern shoreline of the Jones Falls canal to latitude 39°17'20.6"N, longitude 076°36'19.9"W; thence

westward to latitude 39°17'20.5"N, longitude 076°36'20.5"W; thence southward along the western shoreline of the Jones Falls canal to latitude 39°16'58.1"N, longitude 076°36'13.0"W; thence westward along Inner Harbor Pier 6 to the point of origin. The duration of the zone is intended to protect high-ranking United States officials and the public in these navigable waters during activities associated with the U.S. House Republican Conference in Baltimore, MD.

Entry into this security zone is prohibited, unless specifically authorized by the COTP Maryland-National Capital Region or designated representative. Except for public vessels, this rule temporarily requires all vessels in the designated security zone to immediately depart the security zone. Coast Guard personnel will be present to prevent the movement of unauthorized persons into the zone. Federal, state, and local agencies may assist the Coast Guard in the enforcement of this rule. The Coast Guard will issue Broadcast Notices to Mariners to further publicize the security zone and notify the public of changes in the status of the zone. Such notices will continue until the event is complete.

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. Executive Order 13771 directs agencies to

control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the security zone. This security zone will impact the waters affected by this rule for a 52-hour enforcement period. Vessels will be able to safely transit around this security zone, which would impact a small designated area of the Inner Harbor. In addition, notifications will be made to the maritime community via marine information broadcasts so mariners may adjust their plans accordingly. Such notifications will be updated as necessary to keep the maritime community informed of the status of the security zone.

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 will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

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.

C. Collection of Information

This rule will 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 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section above.

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 will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 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 determined 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 a security zone lasting only 52 hours in duration and is necessary to provide security for high-ranking United States officials and the public. It is categorically excluded from further review under paragraph L60(a) in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of

Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. 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.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 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.T05-0738 to read as follows:

§ 165.T05-0738 Security Zone; Inner Harbor, Baltimore, MD.

(a) Location. The following area is a security zone: All waters of the Inner Harbor, from surface to bottom, encompassed by a line connecting the following points beginning at 39°16'58.7"N, 076°36'16.0"W, thence to 39°16'55.3"N, 076°36'14.2"W, thence to 39°16'53.6"N, 076°36'12.5"W, thence to 39°16'52.9"N, 076°36'10.0"W, thence to 39°16'55.5"N, 076°36'10.2"W, thence to 39°17'20.6"N, 076°36'19.9"W; thence to

39°17'20.5"N, 076°36'20.5"W, thence to 39°16'58.1"N, 076°36'13.0"W, thence along Inner Harbor Pier 6 back to the beginning point. These coordinates are based on datum NAD 1983.

(b) Definitions. As used in this section---

Captain of the Port means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means a Coast Guard commissioned, warrant, or petty officer designated by or assisting the Captain of the Port Maryland-National Capital Region (COTP) in the enforcement of the security zone.

Public vessel means a vessel that is owned, chartered, or operated by the Government of the United States, or by a State or political subdivision thereof.

(c) Regulations. (1) Under the general security zone regulations in subpart D of this part, you may not enter the security zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) Except for public vessels, all vessels within this security zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the security zone must first obtain authorization from the COTP or the COTP's designated representative. To seek permission to enter, contact the COTP or the COTP's representative by telephone number 410-576-2693 or on Marine Band Radio VHF-FM channel 16 (156.8 MHz). Those in the security zone must comply with all lawful orders or directions given to them by the

COTP or the COTP's designated representative.

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

Dated: September 6, 2019

Joseph B. Loring,
Captain, U.S. Coast Guard
Captain of the Port Maryland-National Capital Region.
[FR Doc. 2019-19685 Filed: 9/11/2019 8:45 am; Publication Date: 9/12/2019]