



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2023-0786]

RIN 1625-AA87

Security Zone; Patapsco River, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: At the request of the United States Secret Service (USSS), the Coast Guard is establishing a temporary security zone for the protection of persons who will be in Baltimore, MD on September 24, 2023. This security zone will prohibit persons and vessels from entering or remaining within the security zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from 4 p.m. until 8 p.m. on Sunday, September 24, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0786 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 rule, call, or email LCDR Kate Newkirk, Waterways Management Division, Sector Maryland-National Capital Region, U.S. Coast Guard; (410) 365-8141, Kate.M.Newkirk@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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
USSS	United States Secret Service

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 the Coast Guard was notified by the USSS of the visit without sufficient time to publish an NPRM. Delay in promulgating this rule would be impracticable because this security zone must be in by September 24, 2023, to protect these USSS protectees in the vicinity of Baltimore, MD. The presence of these USSS protectees creates unique safety and security concerns.

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 for the same reasons discussed above.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70051 and 70124. The Captain of the Port Maryland-National Capital Region (COTP) has determined that the presence of persons under the protection of the USSS at this location presents a potential target for terrorist attack, sabotage, or other subversive acts, accidents, or other causes of similar nature. This rule is needed to protect persons under the protection of the USSS, personnel in and around the visit site, navigable waterways, and waterfront facilities.

IV. Discussion of the Rule

This rule establishes a security zone from 4 p.m. until 8 p.m. on September 24, 2023, on the Patapsco River, in the vicinity of Baltimore, MD. The security zone will cover all navigable waters of the Inner Harbor on the Patapsco River, encompassed by a line connecting the following points beginning at 39°16'56.60" N, 076°36'26.17" W, thence to 39°17'1.25" N, 076°36'21.67" W, located at Baltimore, MD. The duration of the zone is intended to protect persons under the protection of the USSS, personnel in and around the visit site, navigable waterways, and waterfront facilities.

No vessel or person will be permitted to enter the security zone without obtaining permission from the COTP or a designated representative and must proceed as directed by on-scene enforcement vessels. Any vessel permitted to transit the zone will be required to continue through the zone without pause or delay as directed by on-scene enforcement vessels.

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, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and limited duration of the security zone. This zone impacts a small, designated area of the Patapsco River for 4 hours. Furthermore, vessel traffic can safely transit around the security zone

within the eastern portion of the navigation channel.

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 security 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 (Pub. L. 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.

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.

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, 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

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 4 hours that will prohibit entry within certain navigable waters of the Patapsco River. It is categorically excluded from further review under paragraph L60(c) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

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 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: 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.T05-0786 to read as follows:

§ 165.T05-0786 Security Zone; Patapsco River, Baltimore, MD.

(a) *Location.* The following area is a security zone: All navigable waters of the Inner Harbor on the Patapsco River, encompassed by a line connecting the following points beginning at 39°16'56.60" N, 076°36'26.17" W, thence to 39°17'1.25" N, 076°36'21.67" W, located at Baltimore, MD. These coordinates are based on WGS 84.

(b) *Definitions.* As used in this section - *Captain of the Port (COTP)* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Maryland-National Capital Region (COTP) in the enforcement of the security zone.

Official Patrol Vessel means any Coast Guard, Coast Guard Auxiliary, State, or local law enforcement vessel assigned or approved by the COTP.

USSS protectee means any person for whom the United States Secret Service requests implementation of a security zone in order to supplement protection of said person(s).

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

(2) To seek permission to enter or remain in the Security Zone, 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.

(3) Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with lawful direction may result in expulsion from the regulated area, citation for failure to comply, or both.

(4) Unless specifically authorized by on-scene enforcement vessels, any vessel granted permission to enter or transit the security zone must comply with the instructions

of the COTP or designated representative and operate at bare steerage or no-wake speed while transiting through the Security Zone, and must not loiter, stop, or anchor, and shall do so for the entirety of its time within the boundaries of the security zone.

(d) *Enforcement period.* (1) This section will be enforced from 4 p.m. until 8 p.m. on September 24, 2023.

(2) This security zone described in paragraph (a) of this section will be enforced with actual notice by the U.S. Coast Guard representatives on-scene, as well as other methods listed in 33 CFR 165.7. The Coast Guard will enforce the security zone created by this section only when it is necessary for the protection of USSS protectees in the vicinity of Hampton, Va. The U.S. Coast Guard may be additionally assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

Dated: September 18, 2023.

David E. O'Connell,
Captain, U.S. Coast Guard,
Captain of the Port Sector Maryland-National Capital Region.

[FR Doc. 2023-20562 Filed: 9/21/2023 8:45 am; Publication Date: 9/22/2023]