

concerning its provisions or options for compliance, please contact Marine Safety Office Detroit (*see ADDRESSES*).

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).

#### Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

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

#### Taking of Private Property

This rule would not affect 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

The Coast Guard has 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 concern an environmental risk to health or risk to

safety that may disproportionately affect children.

#### Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph 32(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### 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 final 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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(g), 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.T09-245 is added to read as follows:

#### § 165.T09-245 Safety Zone; Selfridge ANGB Air Show, Harrison Twp, MI.

(a) *Location.* The temporary safety zone will encompass all waters approximately 4 miles West of the mouth of the Clinton River from a center point from the West at position 42°35.4' N, 082°50.3' W, and extending to the north and south shorelines of the Clinton River; from the East at center point position 42°35.8' N, 082°49.8' W to the north and south shorelines of the Clinton River. These coordinates are based upon North American Datum (NAD 83).

(b) *Enforcement periods.* This rule is effective from 4:30 p.m. on July 24, 2003, until 3 p.m. on July 26, 2003. This section will be enforced from 4:30 p.m. to 5:30 p.m. on July 24, 2003; from 4 p.m. to 5 p.m. on July 25, 2003; and again from 2 p.m. to 3 p.m. on July 26, 2003. Enforcement periods will be announced via Broadcast Notice to Mariners on VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Dated: July 8, 2003.

**S.K. Moon,**

*Lieutenant Commander, Coast Guard, Acting Captain of the Port Detroit.*

[FR Doc. 03-18524 Filed 7-21-03; 8:45 am]

BILLING CODE 4910-15-P

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD05-03-008]

RIN 1625-AA00

#### Safety and Security Zones; Chesapeake Bay, Maryland and Tributaries

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing moving and fixed safety and security zones on the waters of the Chesapeake Bay and its tributaries for cruise ships and vessels carrying Certain Dangerous Cargo (CDC), Liquefied Natural Gas (LNG), or Liquefied Hazardous Gas (LHG) in the Captain of the Port (COTP) Baltimore zone. These

zones are necessary to provide for the safety and security of these vessels in response to potential terrorist acts. This rule enhances public and maritime safety and security by requiring vessel traffic to maintain a safe distance from these vessels while they are transiting, anchored, or moored in the COTP Baltimore zone.

**DATES:** This rule is effective on August 21, 2003.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-03-008 and are available for inspection or copying at Commander, U. S. Coast Guard Activities, 2401 Hawkins Point Road, Building 70, Port Safety, Security and Waterways Management Branch, Baltimore, Maryland, 21226-1791, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Dulani Woods, at Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch, at telephone number (410) 576-2513 or (410) 576-2693.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On March 20, 2003, we published a notice of proposed rulemaking (NPRM) entitled "Safety and Security Zones; Chesapeake Bay, Maryland and Tributaries" in the **Federal Register** (68 FR 13649). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

##### **Background and Purpose**

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. The threat of maritime attacks is real as evidenced by the attack on the USS *Cole* and the subsequent attack in October 2002 against a tank vessel off the coast of Yemen. These threats manifest a continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered by the September 11, 2001 attacks and that such aggression continues to endanger the international relations of the United States. See also Continuation of the National Emergency with Respect to Certain Terrorist

Attacks, (67 FR 58317, September 13, 2002); Continuation of the National Emergency with Respect to Persons Who Commit, Threaten To Commit, Or Support Terrorism, (67 FR 59447, September 20, 2002). The U.S. Maritime Administration (MARAD) in Advisory 02-07 advised U.S. shipping interests to maintain a heightened state of alert against possible terrorist attacks.

MARAD more recently issued Advisory 03-05 informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. The ongoing foreign hostilities 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. In this particular rule, to address the aforementioned security and safety concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against certain types of vessels would have on the public interest, the Coast Guard is establishing safety and security zones around these vessels. These safety and security zones prohibit entry into or movement within the specified areas.

This rule establishes safety and security zones around cruise ships and vessels carrying CDC, LNG, or LHG while underway, anchored, or moored in the waters of the Chesapeake Bay and its tributaries. This rule creates these safety and security zones while the above vessels are within navigable waters of the United States in the Captain of the Port (COTP) Baltimore zone, as defined in 33 CFR 3.25-15. While the COTP anticipates some impact on vessel traffic due to this regulation, these safety and security zones are deemed necessary for the protection of life, property, and the safety and security of navigation within the COTP Baltimore zone.

##### **Discussion of Comments and Changes**

The Coast Guard received no comments on the proposed rule during the comment period published in the NPRM. No public meeting was requested, and none was held. As a result, no change to the proposed regulatory text was made with the exception of our deletion of a reference to 33 U.S.C. 1226 in the Authority paragraph because we determined that the reference was unnecessary.

##### **Regulatory Evaluation**

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This finding is based on the limited size of the zones, the minimal time that vessels will be restricted from the zones, and vessels may transit around the zones. In addition, vessels that may need to enter the zones may request permission on a case-by-case basis from the COTP Baltimore or his designated representatives.

##### **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 in a portion of the Chesapeake Bay and its tributaries near a vessel encompassed by the safety and security zones. Because the zones are of limited size and duration, it is expected that there will be minimal disruption to the maritime community. In addition, smaller vessels, which are more likely to be small entities, may transit around the zones and request permission from the COTP Baltimore on a case-by-case basis to enter the zones.

##### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), 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. If the rule would affect your small business and you have questions concerning its provisions or options for

compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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).

#### 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.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, 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 because this rule establishes a safety and security zone. 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, 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(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security No. 0170.1.

■ 2. Add § 165.500 to read as follows:

#### § 165.500 Safety/Security Zones; Chesapeake Bay, Maryland.

(a) *Definitions.* (1) Certain Dangerous Cargo (CDC) means a material defined in 33 CFR part 160.

(2) Liquefied Hazardous Gas (LHG) means a material defined in 33 CFR part 127.

(3) Liquefied Natural Gas (LNG) means a material defined in 33 CFR part 127.

(4) Cruise ship means a vessel defined as a "passenger vessel" in 46 U.S.C. 2101 (22).

(b) *Location.* The following areas are a safety/security zone: All waters of the Chesapeake Bay and its tributaries, from surface to bottom, within a 500 yard radius around cruise ships and vessels transporting CDC, LNG, or LHG while transiting, anchored, or moored within the COTP Baltimore zone.

(c) *Regulations.* (1) The COTP will notify the maritime community of affected vessels and the periods during which the safety/security zones will be enforced by providing notice to mariners in accordance with 33 CFR 165.7.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard COTP, Baltimore, Maryland or his designated representative.

(3) Persons desiring to transit the area of the security zone may contact the COTP at telephone number 410-576-2693 or on VHF channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the COTP or his or her designated representative.

(d) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 50 U.S.C. 191.

Dated: July 10, 2003.

**Curtis A. Springer,**

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

[FR Doc. 03-18523 Filed 7-21-03; 8:45 am]

**BILLING CODE 4910-15-U**