



**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**[Docket Number USCG-2019-0193]**

**RIN 1625-AA00**

**Safety Zones; July 4th Holiday Fireworks in the Coast Guard Captain of the Port Maryland-National Capital Region Zone**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing three temporary safety zones for certain waters within the Captain of the Port Maryland-National Capital Region Zone. This action is necessary to provide for the safety of life on these navigable waters of the Severn River at Sherwood Forest, MD, on July 3, 2019, (with alternate date of July 5, 2019), the Middle River in Baltimore County, MD, on July 6, 2019, (with alternate date of July 7, 2019), and the Susquehanna River at Havre de Grace, MD, on July 6, 2019, (with alternate date of July 7, 2019), during fireworks displays to commemorate the July 4th holiday. This regulation prohibits persons and vessels from being in the safety zones unless authorized by the Captain of the Port Baltimore or a designated representative.

**DATES:** This rule is effective from 8:30 p.m. on July 3, 2019 through 10:30 p.m. on July 7, 2019.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0193 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](mailto:Ronald.L.Houck@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

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

**II. Background Information and Regulatory History**

The Sherwood Forest Club, Inc., notified the Coast Guard that from 9:20 to 9:50 p.m. on July 3, 2019, it will be conducting a fireworks display launched from the end of the Sherwood Forest Club main pier, located adjacent to the Severn River, in Sherwood Forest, MD. In the event of inclement weather, the fireworks display will be scheduled for the same time on July 5, 2019.

The Marine Trades Association of Baltimore County, Inc. notified the Coast Guard that from 9:15 to 9:55 p.m. on July 6, 2019, it will be conducting a fireworks display launched from a fireworks barge located in the Middle River, approximately 300

yards southeast of Wilson Point in Baltimore County, MD. In the event of inclement weather, the fireworks display will be scheduled for the same time on July 7, 2019.

The City of Havre de Grace 2019 Independence Day Commission notified the Coast Guard that from 9:15 to 9:45 p.m. on July 6, 2019, it will be conducting a fireworks display launched from a fireworks barge located in the Susquehanna River, approximately 300 yards southeast of Concord Point in Havre de Grace, MD. In the event of inclement weather, the fireworks display will be scheduled for the same time on July 7, 2019.

In response, on April 9, 2019, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Safety Zones; July 4th Holiday Fireworks in the Coast Guard Captain of the Port Maryland-National Capital Region Zone" (84 FR 14064). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to these three fireworks displays. During the comment period that ended May 9, 2019, we received four comments.

### **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 has determined that potential hazards associated with the fireworks to be used in these three fireworks displays will be a safety concern for anyone within a 150-yard radius of the end of Sherwood Forest Club main pier along the Severn River, a 200-yard radius of the barge on the Middle River, and a 200-yard radius of the barge on the Susquehanna River. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled events.

#### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received four comments on our NPRM published April 9, 2019. The comments were in support of the Coast Guard's rulemaking. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM as a result of comments. However, there is a minor change to coordinates to one of the safety zones. The change is in paragraph (a)(2), to the location of "Safety zone 2." The proposed rule stated the approximate position of the fireworks barge as latitude 39°18'24" N, longitude 076°24'29" W. The approximate position of the fireworks barge is actually latitude 39°18'25" N, longitude 076°24'27" W. The difference between the two locations is approximately 64 yards.

This rule establishes three safety zones for certain waters within the COTP Maryland-National Capital Region Zone, as described in 33 CFR 3.25-15, which will be enforced during the times described below for each zone.

The first safety zone will cover all navigable waters within 150 yards of the end of Sherwood Forest Club main pier located along the Severn River in Sherwood Forest, MD. A "FIREWORKS—DANGER—STAY AWAY" sign will be posted on land adjacent to the shoreline, near the location. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9:20 p.m. to 9:50 p.m. on July 3, 2019 fireworks display.

The second safety zone will cover all navigable waters within 200 yards of a barge in the Middle River located approximately 300 yards southeast of Wilson Point in Baltimore County, MD. "FIREWORKS—DANGER—STAY AWAY" signs will be posted on the port and starboard sides of the on-scene barge. The duration of the zone is

intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9:15 p.m. to 9:55 p.m. on July 6, 2019 fireworks display.

The third safety zone will cover all navigable waters within 200 yards of a barge in the Susquehanna River located approximately 300 yards southeast of Concord Point in Havre de Grace, MD. “FIREWORKS—DANGER—STAY AWAY” signs will be posted on the port and starboard sides of the on-scene barge. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9:15 to 9:45 p.m. on July 6, 2019 fireworks display.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

## **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, duration, and time-of-

day of the safety zones, which would impact small designated areas of the Severn River, Middle River, and Susquehanna River for a total of approximately seven enforcement-hours, during the evening when vessel traffic is normally low. Moreover, the Coast Guard will issue Local Notices to Mariners and a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zones.

*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 received no comments from the Small Business Administration on this rulemaking. 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.

*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 three safety zones lasting seven hours that will prohibit entry within portions of the Severn River, Middle River, and Susquehanna River. 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: 46 U.S.C. 70034, 70051; 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.T05-0193 to read as follows:

**§ 165.T05-0193 Safety Zones; July 4th Holiday Fireworks in the Coast Guard**

**Captain of the Port Maryland-National Capital Region Zone.**

(a) Locations. The following areas are a safety zone. All coordinates refer to datum NAD 1983.

(1) Safety zone 1. All navigable waters of the Severn River, within 150 yards of a fireworks discharge site located at the end of Sherwood Forest Club main pier in approximate position latitude 39°01'54.0" N, longitude 076°32'41.8" W, located at Sherwood Forest, MD.

(2) Safety zone 2. All navigable waters of the Middle River, within 200 yards of a fireworks barge in approximate position latitude 39°18'25" N, longitude 076°24'27"

W, located in Baltimore County, MD.

(3) Safety zone 3. All navigable waters of the Susquehanna River, within 200 yards of a fireworks barge in approximate position latitude 39°32'19" N, longitude 076°04'58.3" W, located at Havre de Grace, MD.

(b) Definitions. As used in this section:

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

(2) Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing any safety zone described in paragraph (a) of this section.

(c) Regulations. (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative. All vessels underway within this safety zone at the time it is activated are to depart the zone.

(2) To seek permission to enter, contact the COTP or the COTP's designated representative by telephone at 410-576-2693 or on Marine Band Radio VHF-FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF-FM channel 16 (156.8 MHz).

(3) Those in the safety 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 safety zone by Federal, State, and local agencies.

(e) Enforcement. These safety zones will be enforced during the periods described in paragraph (f) of this section. A “FIREWORKS—DANGER—STAY AWAY” sign will be posted on land adjacent to the shoreline, near the location described in paragraph (a)(1) of this section. A “FIREWORKS—DANGER—STAY AWAY” sign will be posted on the port and starboard sides of the barge on-scene near the locations described in paragraphs (a)(2) and (3) of this section.

(f) Enforcement periods. (1) Paragraph (a)(1) of this section will be enforced from 8:30 p.m. to 10:30 p.m. on July 3, 2019. If necessary due to inclement weather on July 3rd, it will be enforced from 8:30 p.m. to 10:30 p.m. on July 5, 2019.

(2) Paragraph (a)(2) of this section will be enforced from 8 p.m. to 10:30 p.m. on July 6, 2019. If necessary due to inclement weather on July 6th, it will be enforced from 8 p.m. to 10:30 p.m. on July 7, 2019.

(3) Paragraph (a)(3) of this section will be enforced from 8 p.m. to 10:30 p.m. on July 6, 2019. If necessary due to inclement weather on July 6th, it will be enforced from 8 p.m. to 10:30 p.m. on July 7, 2019.

Dated: May 23, 2019.

Joseph B. Loring,  
Captain, U.S. Coast Guard,  
Captain of the Port Maryland-National Capital Region.  
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