

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[Docket Number USCG–2016–0416]****RIN 1625–AA00****Safety Zone; Chesapeake Bay, Cape Charles, VA****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters in the vicinity of the inlet of Kings Creek, on the Chesapeake Bay. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with a fireworks display, which include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Hampton Roads.

**DATES:** This rule is effective from 8:30 p.m. on August 6, 2016, through 10:30 p.m. on August 7, 2016. This rule will be enforced from 8:30 p.m. through 10:30 p.m. on August 6, 2016, unless the fireworks display is postponed because of adverse weather, in which case this rule will be enforced from 8:30 p.m. through 10:30 p.m. on August 7, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2016–0416 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 LCDR Barbara Wilk, Waterways Management Division Chief, Sector Hampton Roads, U.S. Coast Guard; telephone 757–668–5580, email [hamptonroadswaterway@uscg.mil](mailto:hamptonroadswaterway@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

**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. It is impracticable for us to publish an NPRM because information about the fireworks was received by the Coast Guard without sufficient time to publish a proposed rule and consider comments on it and then issue an effective rule by August 6, 2016. The Coast Guard will provide advance notifications to users of the affected waterway via marine information broadcasts and local notice to mariners.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds good cause for making it effective less than 30 days after publication in the **Federal Register**. The restriction on vessel traffic is necessary to protect life, property and the environment, on the scheduled day and rain date for the fireworks display when there are expected to be more than 2,000 spectators present. Therefore, due to the need to have a rule effective starting August 6, it is impracticable to delay the effective date of this rule until 30 days after it is published. Delaying the effective date would be contrary to the safety zone’s intended objectives of protecting persons and vessels, and enhancing public and maritime safety.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Hampton Roads (COTP) has determined that potential hazards associated with fireworks display starting on August 6, 2016, with a rain date of August 7, 2016, will be a safety concern for anyone within a 280 foot radius of the launching site. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the fireworks display. The potential hazards to mariners within the safety zone include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

**IV. Discussion of the Rule**

This rule establishes a safety zone from 8:30 p.m. through 10:30 p.m. on August 6, 2016, with a rain date of August 7, 2016. This rule will only be subject to enforcement on August 7,

2016, if the scheduled August 6 fireworks display is postponed because of adverse weather. The safety zone will encompass all navigable waters of the inlet of Kings Creek, on the Chesapeake Bay, within a 280 foot radius of the fireworks launch site in approximate position 37°16’53” N., 076°00’42” W. (NAD 1983). The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the 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 order 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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of the Chesapeake Bay in Cape Charles, VA for one hour. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the 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 (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 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 Management Directive 023–01 and Commandant Instruction M16475.ID, 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 safety zone lasting two hours that will prohibit entry in all navigable waters within a 280 foot radius of the launching site. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### 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, under the undesignated center heading Fifth Coast Guard District, temporary § 165.T05–0416 to read as follows:

#### § 165.T05–0416 Safety Zone, Chesapeake Bay; Cape Charles, VA.

(a) *Definitions.* For the purposes of this section—

“*Captain of the Port*” means the Commander, Sector Hampton Roads.

“*Participants*” means individuals and vessels involved in explosives training.

“*Representative*” means any Coast Guard commissioned, warrant or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: All waters in the vicinity of the of the inlet of Kings Creek, on the Chesapeake Bay, within a 280 foot radius of the fireworks launch site in approximate position 37°16'53" N., 076°00'42" W. (NAD 1983).

(c) *Regulations.* (1) The general regulations governing safety zones in § 165.23, apply to the area described in paragraph (b) of this section.

(2) With the exception of participants, entry into or remaining in this safety zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(3) All vessels underway within this safety zone at the time it is implemented are to depart the zone immediately.

(4) The Captain of the Port, Hampton Roads or his representative can be contacted at telephone number (757) 668–5555.

(5) The Coast Guard and designated security vessels enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(6) This section applies to all persons or vessels wishing to transit through the safety zone except participants and vessels that are engaged in the following operations: Enforcing laws, servicing aids to navigation, and emergency response vessels.

(d) *Enforcement.* 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 period.* This section will be enforced from 8:30 p.m. through 10:30 p.m. on August 6, 2016, with a rain date on August 7, 2016.

Dated: July 19, 2016.

**Richard J. Wester,**

*Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.*

[FR Doc. 2016-18339 Filed 8-1-16; 8:45 am]

**BILLING CODE 9110-04-P**

## POSTAL SERVICE

### 39 CFR Part 230

#### Procedures Relating to the Disposition of Property Acquired by the United States Postal Service Office of Inspector General for Use as Evidence

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes procedures for the disposition of abandoned property held by the United States Postal Service Office of Inspector General. The rule establishes procedures for determining the ownership of abandoned property, the advertisement of abandoned items with no apparent owner held by the Office of Inspector General, and the disposal of items declared abandoned.

**DATES:** *Effective:* August 2, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Gladis Griffith, Office of General Counsel, (703) 248-4683.

**SUPPLEMENTARY INFORMATION:** On March 30, 2016, the Postal Service published a proposed rule to establish procedures for the disposition of abandoned property held by the United States Postal Service Office of Inspector General (81 FR 17637).

In the course of conducting official investigations, Special Agents of the United States Postal Service Office of Inspector General frequently recover property lost or stolen from the mail and obtain custody of property needed for use as evidence in proceedings to enforce various provisions of the United States Code. In most cases, such property is returned to the owner at the conclusion of the investigation or any resulting administrative or judicial proceedings. In some cases, however, the owners fail to claim property, and it therefore remains in the custody of the Office of Inspector General after it is no longer needed. The objective of the proposed rule was to establish a fair and uniform procedure to identify the owners of such property, afford them an

opportunity to claim its return, and in the event a valid claim is not received, treat such property as abandoned and direct that it be sold or put to official use. Apparent owners would be notified of their right to claim property, and where no apparent owner is known and the value of the property in question exceeds \$200, notice would be published on the Office of Inspector General's Web site inviting the owner to submit a claim for its return.

No comments were received in response to the proposed rule. Upon further consideration, however, the Postal Service determined it would be appropriate to make non-substantive changes in proposed §§ 230.31 and 230.42 to clarify their meaning. Accordingly, in § 230.31, the definition of *Ruling Official* has been clarified; and in § 230.42, more specific instructions have been provided to special agents for the disposition and conversion of abandoned property.

#### List of Subjects in 39 CFR Part 230

Administrative practice and procedure, Claims, Law enforcement, Property (abandoned).

For the reasons stated in the preamble, the Postal Service amends 39 CFR part 230 as follows:

#### PART 230—OFFICE OF INSPECTOR GENERAL

■ 1. The authority citation for part 230 continues to read as follows:

**Authority:** 5 U.S.C. App.3; 39 U.S.C. 401(2) and 1001.

■ 2. Add subpart C to read as follows:

#### Subpart C—Rules of Procedure Relating to the Disposition of Stolen Mail Matter and Property Acquired by the Office Of Inspector General for Use as Evidence

Sec.

230.30 Scope.

230.31 Definitions.

230.32 Disposition of property of apparent owners where property is valued over \$200.

230.33 Disposition of property of apparent owners where property is valued at \$200 or less.

230.34 Disposition of property of unknown owners where property is valued over \$200.

230.35 Disposition of property of unknown owners where property is valued at \$200 or less.

230.36 Contraband and property subject to court order.

230.37 Determination of type of property.

230.38 Disposition of abandoned property; additional period for filing claims.

230.39 Submission of claims.

230.40 Determination of claims.

230.41 Reconsideration of claims.

230.42 Disposition of property declared abandoned where title vests in the government.

#### § 230.30 Scope.

This subpart prescribes procedures governing the disposition of any property (real, personal, tangible, or intangible) obtained by the United States Postal Service Office of Inspector General (Office of Inspector General) for possible use as evidence after the need to retain such property no longer exists.

#### § 230.31 Definitions.

The following definitions apply to this subpart:

(a) *Apparent.* That which is clear, plain, and evident.

(b) *Owner.* The person recognized by the law as having ultimate control over and the right to use property.

(c) *Claimant.* A person who submits a claim for abandoned or other unclaimed property.

(d) *Ruling official.* The official who has the authority to grant or deny a claim for abandoned or other unclaimed property, typically the Executive Special Agent in Charge of the Area Field Office where the property is located, or a designee.

#### § 230.32 Disposition of property of apparent owners where property is valued over \$200.

Where an apparent owner of property subject to this subpart is known, and the estimated value of the property exceeds \$200, the owner shall be notified by certified mail at his last known address. The written notice shall describe the property and the procedure for filing a claim for its return (*see*, §§ 230.36 and 230.39). Such claims must be filed within 30 days from the date the written notice is postmarked. If the apparent owner of the property fails to file a timely claim, the property is considered abandoned and must be disposed of as provided in § 230.38.

#### § 230.33 Disposition of property of apparent owners where property is valued at \$200 or less.

Where an apparent owner of property subject to this subpart is known, and the estimated value of the property is \$200 or less, the Executive Special Agent in Charge, or a designee, should attempt to return the property to the owner. If successful, the Executive Special Agent in Charge shall request the owner sign a Hold Harmless Agreement. If not, the Executive Special Agent in Charge shall vest title in the Government.