

administrative completeness and determine appropriate disposition, either transmitting the record of trial to the Review Panel or returning it to the military commission for any necessary supplementary proceedings.

(13) Implement directions of officials with final decision-making authority for sentences.

(14) Perform supervisory and performance evaluation duties pursuant to this part and DoD Military Commission Instruction No. 6.

(15) Coordinate matters involving members of the Congress, including correspondence, with the Assistant Secretary of Defense for Legislative Affairs; and coordinate and exchange data and information with other OSD officials, the Heads of the DoD Components, and other Federal officials having collateral or related functions.

(16) Establish, maintain, and preserve records that serve as evidence of the organization, functions, policies, decisions, procedures, operations, and other activities of the Office of the Appointing Authority for Military Commissions in accordance with Title 44 U.S.C.

(17) Perform such other functions as the Secretary of Defense may prescribe.

(b) The General Counsel of the Department of Defense shall:

(1) Review and approve such regulations, instructions, memoranda, and other DoD publications prepared by the Appointing Authority (see § 18.6(c)) for the conduct of proceedings by military commissions established pursuant to Military Order of November 13, 2001 and DoD Military Commission Order No. 1.

(2) Provide guidance and issue instructions necessary to facilitate the conduct of proceedings by military commissions established pursuant to Military Order of November 13, 2001 and DoD Military Commission Order No. 1, including but not limited to instructions pertaining to military commission-related offices, performance evaluations and reporting relationships.

(c) The Chairman of the Joint Chiefs of Staff and the OSD Principal Staff Assistants shall exercise their designated authorities and responsibilities as established by law or DoD guidance to support the Appointing Authority for Military Commissions in the implementation of the responsibilities and functions specified herein.

(d) The Secretaries of the Military Departments shall support the personnel requirements of the Appointing Authority as validated by the General Counsel of the Department of Defense and provide other requested

assistance and support within their capabilities.

§ 18.5 Relationships.

(a) In the performance of assigned functions and responsibilities, the Appointing Authority for Military Commission shall:

(1) Report directly to the Secretary of Defense.

(2) Use existing facilities and services of the Department of Defense and other Federal Agencies, whenever practicable, to avoid duplication and to achieve an appropriate level of efficiency and economy.

(b) Other OSD officials and the Heads of the DoD Components shall coordinate with the Appointing Authority for Military Commissions on all matters related to the responsibilities and functions cited in § 18.4.

(c) Nothing herein shall be interpreted to subsume or replace the responsibilities, functions, or authorities of the OSD Principal Staff Assistants, the Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff, the Commanders of Combatant Commands, or the Heads of Defense Agencies or the Department of Defense Field Activities prescribed by law or Department of Defense guidance.

§ 18.6 Authorities.

The Appointing Authority for Military Commissions is hereby delegated authority to:

(a) Obtain reports and information, consistent with DoD Directive 8910.1 as necessary to carry out assigned functions.

(b) Communicate directly with the Heads of the DoD Components as necessary to carry out assigned functions, including the transmission of requests for advice and assistance. Communications to the Military Departments shall be transmitted through the Secretaries of the Military Departments, their designees, or as otherwise provided in law or directed by the Secretary of Defense in other Department of Defense issuances. Communications to the Commanders of the Combatant Commands, except in unusual circumstances, shall be transmitted through the Chairman of the Joint Chiefs of Staff.

(c) Subject to the approval of the General Counsel of the Department of Defense, issue DoD Publications and one-time directive-type memoranda consistent with DoD 5025.1-M; Military Commission Instructions consistent with DoD Military Commission Instruction No. 1; and such other regulations as are necessary or appropriate for the conduct of

proceedings by military commissions established pursuant to Military Order of November 13, 2001 and DoD Military Commission Order No. 1. Instructions to the Military Departments shall be issued through the Secretaries of the Military Departments. Instructions to the Combatant Commands, except in unusual circumstances, shall be communicated through the Chairman of the Joint Chiefs of Staff.

(d) Communicate with other Government officials, representatives of the Legislative Branch, members of the public, and representatives of foreign governments, as applicable, in carrying out assigned functions.

Dated: May 26, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05-04-099]

RIN 1625-AA08

Special Local Regulations for Marine Events; Chesapeake Bay Bridges Swim Races, Chesapeake Bay, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.507 during the Annual Great Chesapeake Bay Swim Event to be held on June 13, 2004. This action is necessary to provide for the safety of life on navigable waters before, during and after the event. The effect will be to restrict general navigation in the regulated area for the safety of participants and support vessels in the event area.

DATES: 33 CFR 100.507 will be enforced from 11:30 a.m. to 4 p.m. on June 13, 2004.

FOR FURTHER INFORMATION CONTACT: Ron Houck, Marine Information Specialist, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226-1971, (410) 576-2674.

SUPPLEMENTARY INFORMATION: The Great Chesapeake Bay Swim, Inc. will sponsor the "Great Chesapeake Bay Swim Event" on the waters of the Chesapeake

Bay between and adjacent to the spans of the William P. Lane Jr. Memorial Bridge. Approximately 600 swimmers will start from Sandy Point State Park and swim between the spans of the William P. Lane Jr. Memorial Bridge to the Eastern Shore. A large fleet of support vessels will be accompanying the swimmers. Therefore, to ensure the safety of participants and support vessels, 33 CFR 100.507 will be enforced for the duration of the event. Under provisions of 33 CFR 100.507, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Vessel traffic will be allowed to transit the regulated area as the swim progresses, when the Patrol Commander determines it is safe to do so.

Dated: May 20, 2004.

Sally Brice-O'Hara,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05-04-100]

RIN 1625-AA08

Special Local Regulations for Marine Events; Patapsco River, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.515 during the National Flag Day "Pause for the Pledge" fireworks display to be held June 14, 2004, over the Patapsco River at Baltimore, Maryland. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the fireworks display. The effect will be to restrict general navigation in the regulated area for the safety of spectators and vessels transiting the event area.

DATES: 33 CFR 100.515 will be enforced from 9 p.m. to 10 p.m. on June 14, 2004.

FOR FURTHER INFORMATION CONTACT: Ron Houck, Marine Information Specialist, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226-1971, (410) 576-2674.

SUPPLEMENTARY INFORMATION: The National Flag Day Foundation will sponsor the National Flag Day "Pause for the Pledge" fireworks display on June 14, 2004, over the Patapsco River, Baltimore, Maryland. The fireworks display will be launched from a barge positioned within the regulated area. In order to ensure the safety of spectators and transiting vessels, 33 CFR 100.515 will be enforced for the duration of the event. Under provisions of 33 CFR 100.515, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Dated: May 20, 2004.

Sally Brice-O'Hara,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

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BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 04-012]

RIN 1625-AA00

Security Zone; Suisun Bay, Concord, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone in the navigable waters of the United States adjacent to Pier Three at the Military Ocean Terminal Concord (MOTCO), California (formerly United States Naval Weapons Center Concord, California). In light of recent terrorist actions against the United States, this security zone is necessary to ensure the safe loading of military equipment and to ensure the safety of the public from potential subversive acts. The security zone will prohibit all persons and vessels from entering, transiting through or anchoring within a portion of Suisun Bay within 500 yards of Pier Three at the MOTCO facility unless authorized by the Captain of the Port (COTP) or his designated representative.

DATES: This rule is effective from 7 a.m. P.d.t. on May 28, 2004, to 11:59 p.m. P.d.t. on June 4, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket (COTP San Francisco Bay 04-012) and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign John Bannon, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437-3082.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM because the duration of the NPRM rulemaking process would extend beyond the actual period of the scheduled operations and defeat the protections afforded by the temporary rule to the cargo vessels, their crews, the public and national 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** as the schedule and other logistical details were not known until a date fewer than 30 days prior to the start date of the military operation. Delaying this rule's effective date would be contrary to the public interest since the safety and security of the people, ports, waterways, and properties of the Port Chicago and Suisun Bay areas would be jeopardized without the protection afforded by this security zone.

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. In addition, the ongoing hostilities in Afghanistan and the conflict in Iraq have made it prudent for U.S. ports to be on a higher state of alert because Al-Qaeda and other organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

The threat of maritime attacks is real as evidenced by the attack on the *USS Cole* and the subsequent attack in