

(f) *Notice of intent to disclose.* HUD will consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose business information. Whenever HUD decides to disclose business information over the objection of a submitter, HUD will give the submitter written notice, which will include:

- (1) A statement of the reason(s) why each of the submitter's disclosure objections was not sustained;
- (2) A description of the business information to be disclosed; and
- (3) A specified disclosure date, which shall be a reasonable time subsequent to the notice.

(g) *Exceptions to notice requirements.* The notice requirements of paragraphs (c) and (f) of this section will not apply if:

- (1) HUD determines that the information should not be disclosed;
- (2) The information lawfully has been published or has been officially made available to the public; or
- (3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600.

(h) *Notice of a FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, HUD will promptly notify the submitter.

(i) *Corresponding notice to requesters.* Whenever HUD provides a submitter with notice and an opportunity to object to disclosure under paragraph (f) of this section, HUD will also notify the requester(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, HUD will notify the requester(s).

#### § 15.109 Appeals.

(a) *In general.* A requester may appeal an adverse determination denying a request, in any respect, in writing. The letter of appeal should clearly identify the determination that is being appealed and the assigned tracking number. The appeal letter and envelope should be marked "Freedom of Information Act Appeal" for the quickest possible handling. If mailed, the requester's letter of appeal must be postmarked within 30 calendar days of the date of HUD's letter of determination. If the letter of appeal is transmitted electronically or by a means other than the United States Postal Service, it must be received in the appropriate office by the close of business on the 30th calendar day after the date of HUD's letter of determination.

(b) *Time frames*—(1) Expedited processing. HUD will decide an appeal

of a denial of a request to expedite processing of a FOIA request within 10 working days of receipt of the appeal.

(2) *All other appeals.* HUD will make a determination on appeals within 20 working days of receipt, unless unusual circumstances require HUD to extend the time for an additional 10 working days.

(3) *Exceptions.* An appeal ordinarily will not be acted upon if the subject of the appeal is simultaneously being litigated in an applicable Federal court.

(c) *Content of appeals.* An appeal letter should include the following:

- (1) A copy of the original request;
- (2) A copy of the adverse determination;
- (3) A statement of facts and legal arguments supporting the appeal; and
- (4) Any additional information the appellant wishes to include.

(d) *When appeal is required.* Before seeking a court review of HUD's adverse determination, a requester generally must have exhausted their administrative remedies.

#### § 15.110 HUD response to appeals.

(a) *In general.* (1) The appellate official will conduct a de novo review of the entire record and applicable law when making a decision.

(2) The decision on the appeal will be made in writing and will be considered the final action of HUD.

(i) A decision affirming an adverse determination, in whole or in part, will contain a statement of the reason(s) for the affirmation, including any FOIA exemption(s) applied, and will inform the appellant of the FOIA provisions for potential court review of the decision.

(ii) If the adverse determination is modified on appeal, in whole or in part, a written decision will be sent to the appellant and the FOIA request will be reprocessed in accordance with the appeal decision.

(iii) Adverse decisions will include the name and contact information of dispute resolution services that offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a nonexclusive alternative to litigation.

(b) *Appeal of a denial of record request.* Upon appeal of a denial of a record request, the appellate official will issue a decision that either:

- (1) Overturns the adverse determination, in whole or in part, and remands the request to the appropriate office. The requester will be notified of the rationale for the determination in writing. The original office will then reprocess the request in accordance with the appeal determination and respond directly to the requester; or

(2) Affirms the adverse determination and declines to provide the requested records to the appellant.

(c) *Appeal of a fee determination.* Upon appeal of a fee determination, the appellate official will issue a decision that either:

- (1) Waives the fee or charges the fee that the appellant requested;
- (2) Modifies the original fee charged and explains why the modified fee is appropriate; or

(3) Advises the appellant that the original fee charged was appropriate and gives the reason behind this determination.

(d) *Appeal of a denial of expedited processing.* Upon appeal of a denial of an expedited processing request, the appellate official will issue a decision that either:

- (1) Overturns the adverse determination and grants the expedited processing request; or
- (2) Affirms the decision to deny expedited processing.

Date: August 7, 2015.

**Nani A. Coloretti,**  
Deputy Secretary.

[FR Doc. 2015–20226 Filed 8–14–15; 8:45 am]

BILLING CODE 4210–67–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2015–0701]

RIN 1625–AA00

#### Safety Zone, James River; Newport News, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the navigable waters of the James River, in the vicinity of the James River Reserve Fleet, in support of United States Navy explosives training on the M/V SS DEL MONTE. This safety zone will restrict vessel movement in the specified area during the explosives training. This action is necessary to provide for the safety of life and property on the surrounding navigable waters during the United States Navy explosives training.

**DATES:** This rule is effective and enforced from 8 a.m. on August 17, 2015 until 4 p.m. on August 21, 2015.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG–2015–0701]. To view documents

mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LCDR Barbara Wilk, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone (757) 668-5580, email [HamptonRoadsWaterway@uscg.mil](mailto:HamptonRoadsWaterway@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

#### A. Regulatory History and Information

The Coast Guard is issuing this temporary final 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 written 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 due to the fact that this military training is necessary to train and qualify Navy personnel in the use of explosives. This training is imperative to ensure that Navy personnel located within the Fifth Coast Guard District are properly trained and qualified before conducting military and national security operations for use in securing ports and waterways. Navy policy requires that Navy personnel meet and maintain certain qualification standards before being allowed to carry out certain missions. Failure to conduct this required training at this time will result in a lapse in personnel qualification standards and, consequently, the inability of Navy personnel to carry out important national security functions at

any time. The Coast Guard received the information about this event on July 20, 2015; delaying the effective date by first publishing an NPRM would be contrary to the safety zone's intended objectives as well as to the public interest because immediate action is needed to protect persons and vessels against the hazards associated. The Coast Guard will provide advance notification to users of the affected waterway via marine information broadcasts and local notice to mariners. 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 that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the need for immediate action, the restriction on vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. 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.

#### B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231; 33 CFR 1.05-1, 6.04-1, 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones.

The purpose of this safety zone is to protect the participants, patrol vessels, and other vessels transiting navigable waters of the James River, in the vicinity of the James River Reserve Fleet, from hazards associated with military explosives operations. The potential hazards to mariners within the safety zone include shock waves, flying shrapnel, and loud noises.

#### C. Discussion of the Final Rule

The Captain of the Port of Hampton Roads is establishing a safety zone on specified waters of the James River, in the vicinity of the James River Reserve Fleet, in Newport News, VA. The safety zone will encompass all navigable waters within a 1500 foot radius of the SS DEL MONTE location at position 37°06'11" N., 076°38'40" W. (NAD 1983). This safety zone will be established and enforced from 8 a.m. on August 17, 2015 until 4 p.m. on August 21, 2015. Access to the safety zone will be restricted during the specified dates and times. Except for participants and vessels authorized by the Captain of the Port of his Representative, no person or

vessel may enter or remain in the regulated area.

The Captain of the Port will give notice of the enforcement of the safety zone by all appropriate means to provide the widest dissemination of notice to the affected segments of the public. This includes publication in the Local Notice to Mariners and Marine Information Broadcasts.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this safety zone restricts vessel traffic through the regulated area, the effect of this rule will not be significant because: (i) This rule will only be enforced for the limited size and duration of the event; and (ii) the Coast Guard will make extensive notification to the maritime community via marine information broadcasts so mariners may adjust their plans accordingly.

##### 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 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. This rule affects the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in waters of the Eastern Branch of the Elizabeth River during the enforcement period.

This safety zone will not have a significant economic impact on a substantial number of small entities for

the following reasons: (i) The safety zone is of limited size and duration, and (ii) Sector Hampton Roads will issue maritime advisories widely available to users of the James River allowing mariners to adjust their plans accordingly.

### 3. Assistance for Small Entities

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, above.

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.

### 4. 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).

### 5. Federalism

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 determined that this rule does not have implications for federalism.

### 6. 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.

### 7. 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### 9. 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.

### 10. 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.

### 11. 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.

### 12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### 14. Environment

We have analyzed this rule under Department of Homeland Security

Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (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 the establishment of a safety zone. This rule is categorically excluded from further review under paragraph 34–(g) of Figure 2–1 of the Commandant Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

### 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, 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0701 to read as follows:

#### § 165.T05–0701 Safety Zone, James River; Newport News, VA.

(a) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commander, Sector Hampton Roads. *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. *Participants* mean individuals and vessels involved in explosives training.

(b) *Locations.* The following area is a safety zone:

(1) All waters in the vicinity of the of the James River Reserve Fleet, in the James River, within a 1500 foot radius of the M/V SS DEL MONTE in approximate position 37°06'11" N., 076°38'40" W. (NAD 1983).

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing safety zones in § 165.23 of this part.

(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 James River Reserve Fleet security vessels enforcing the safety zone can be contacted on VHF-FM marine band radio channel 13 (165.65 Mhz) 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:

- (i) Enforcing laws;
- (ii) Servicing aids to navigation; and
- (iii) Emergency response vessels.

(7) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(d) *Enforcement period.* This rule will be enforced from 8 a.m. on August 17, 2015 to 4 p.m. on August 21, 2015.

Dated: July 31, 2015.

**Christopher S. Keane,**

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

[FR Doc. 2015-20115 Filed 8-14-15; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2015-0760]

RIN 1625-AA00

#### Safety Zone; U.S. Army Exercise, Des Plaines River, Channahon, IL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Des Plaines River between mile marker 277.8 and mile marker 279.2, Channahon, IL. This safety zone is intended to restrict vessels from a portion of the Des Plaines River from August 18, 2015 to August 19, 2015, with a rain date of August 20, 2015. This temporary safety zone is necessary to protect the surrounding public and vessels from the hazards associated with low flying aircraft and bridging operations spanning the width of the river for a U.S. Army exercise.

**DATES:** This rule is effective from 12:01 a.m. on August 18, 2015 to 11:59 p.m.

on August 20, 2015. This rule will be enforced with actual notice from 6:30 a.m. until 6:30 p.m. on August 18, 2015 and August 19, 2015, or alternatively if postponed due to inclement weather, from 6:30 a.m. until 6:30 p.m. on August 20, 2015.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG-2015-0760. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, contact or email LT Lindsay Cook, U.S. Coast Guard Marine Safety Unit Chicago, at (630) 986-2155 or [Lindsay.N.Cook@uscg.mil](mailto:Lindsay.N.Cook@uscg.mil). If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Table of Acronyms

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

##### A. Regulatory History and Information

The Coast Guard is issuing this temporary final 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 with respect to this rule because doing so would be impracticable. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect the public and vessels from the

hazards associated with low flying aircraft and bridging operations spanning the width of the river for a U.S. Army exercise.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable.

##### B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05-1, 160.5; Department of Homeland Security Delegation No. 0170.1.

On August 18, 2015 and August 19, 2015, the U.S. Army will conduct a bridging exercise spanning the width of the river. The Captain of the Port, Lake Michigan, has determined that the low flying aircraft and bridging operations spanning the width of the river associated with this exercise will pose a significant risk to public safety and property. This safety zone is necessary to protect the public from the hazards associated with low flying aircraft and bridging operations.

##### C. Discussion of the Final Rule

With the aforementioned hazards in mind, the Captain of the Port, Lake Michigan, has determined that this temporary safety zone is necessary to ensure the safety of the public and the participants during a U.S. Army exercise on a portion of the Des Plaines River from mile marker 277.8 to mile marker 279.2. This safety zone will be enforced from 6:30 a.m. until 6:30 p.m. on August 18, 2015 and August 19, 2015. If the event is postponed due to inclement weather, the safety zone will be enforced from 6:30 a.m. until 6:30 p.m. on August 20, 2015, the allotted rain date. This zone will encompass all waters of the Des Plaines River from mile marker 277.8 to mile marker 279.2.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Lake Michigan, or a designated on-scene representative. The Captain of the Port or a designated on-scene representative may be contacted via VHF Channel 16.

##### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.