

immunization, injection or medication administered.

(6) The charges for pharmacy, durable medical equipment and supplies are based on CHAMPUS prevailing rates in cases in which such rates are available, in cases in which such rates are not available, on the average full cost of these items, exclusive of any costs considered for purposes of any outpatient visit. A separate charge shall be made for each item provided.

(7) Charges for aero-medical evacuation will be based on the full cost of the aero-medical evacuation services.

(h) *Special rule for TRICARE Resource Sharing Agreements.* Services provided in facilities of the Uniformed Services in whole or in part through personnel or other resources supplied under a TRICARE Resource Sharing Agreement under 32 CFR 199.17(h) are considered for purposes of this part as services provided by the facility of the Uniformed Services. Thus, third party payers will receive a claim for such services in the same manner and for the same charges as any similar services provided by a facility of the Uniformed Services.

(i) *Alternative determination of reasonable charges.* Any third party payer that can satisfactorily demonstrate a prevailing rate of payment in the same geographic area for the same or similar aggregate groups of services that is less than the charges prescribed under this section may, with the agreement of the facility of the Uniformed Services (or other authorized representatives of the United States), limit payments under 10 U.S.C. 1095 to that prevailing rate for those services. The determination of the third party payer's prevailing rate shall be based on a review of valid contractual arrangements with other facilities or providers constituting a majority of the services for which payment is made under the third party payer's plan. This paragraph does not apply to cases covered by § 220.11.

(j) *Exception authority for extraordinary circumstances.* The Assistant Secretary of Defense (Health Affairs) may authorize exceptions to this section, not inconsistent with law, based on extraordinary circumstances.

7. Section 220.10 is amended by revising paragraph (c)(1) introductory text to read as follows:

**§ 220.10 Special rules for Medicare supplemental plans.**

(c) *Charges for Healthcare services other than inpatient deductible amount.* (1) The Assistant Secretary of Defense (Health Affairs) may establish charge

amounts for Medicare supplemental plans to collect reasonable charges for inpatient and outpatient copayments and other services covered by the Medicare supplemental plan. Any such schedule of charge amounts shall:

8. Section 220.12 is amended by revising paragraph (a)(1) to read as follows:

**§ 220.12 Special rules for preferred provider organizations.**

(a) *Statutory requirement.* (1) Pursuant to the general duty of third party payers to pay under 10 U.S.C. 1095(a)(1) and the definitions of 10 U.S.C. 1095(h), a plan with a preferred provider organization (PPO) provision or option generally has an obligation to pay the United States the reasonable charges for healthcare services provided through any facility of the Uniformed Services to a Uniformed Services beneficiary who is also a beneficiary under the plan.

9. Section 220.13 is amended by revising paragraph (a) to read as follows:

**§ 220.13 Special rules for workers' compensation programs.**

(a) *Basic rule.* Pursuant to the general duty of third party payers under 10 U.S.C. 1095(a)(1) and the definitions of 10 U.S.C. 1095(h), a workers' compensation program or plan generally has an obligation to pay the United States the reasonable charges for healthcare services provided in or through any facility of the Uniformed Services to a Uniformed Services beneficiary who is also a beneficiary under a workers' compensation program due to an employment related injury, illness, or disease. Except to the extent modified or supplemented by this section, all provisions of this part are applicable to any workers' compensation program or plan in the same manner as they are applicable to any other third party payer.

10. Section 220.14 is amended by revising the definitions of "covered beneficiaries" and "third party payer" to read as follows:

**§ 220.14 Definitions.**

*Covered beneficiaries.* Covered beneficiaries are all healthcare beneficiaries under chapter 55 of title 10, United States Code, except members of the Uniformed Services on active duty (as specified in 10 U.S.C. 1074(a)). However, for purposes of § 220.11 of this part, such members of the

Uniformed Services are included as covered beneficiaries.

*Third party payer.* A third party payer is any entity that provides an insurance, medical service, or health plan by contract or agreement. It includes but is not limited to:

- (1) State and local governments that provide such plans other than Medicaid.
- (2) Insurance underwriters or carriers.
- (3) Private employers or employer groups offering self-insured or partially self-insured medical service or health plans.
- (4) Automobile liability insurance underwriter or carrier.
- (5) No fault insurance underwriter or carrier.
- (6) Workers' compensation program or plan sponsor, underwriter, carrier, or self-insurer.
- (7) Any other plan or program that is designed to provide compensation or coverage for expenses incurred by a beneficiary for healthcare services or products.

Dated: August 30, 2002.

**Patricia L. Toppings,**  
*Alternate OSD Federal Register Liaison Officer, Department of Defense.*  
[FR Doc. 02-23244 Filed 9-11-02; 8:45 am]  
BILLING CODE 5001-08-M

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

[CGD05-02-060]

RIN 2115-AA97

**Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD**

**AGENCY:** Coast Guard, DOT.  
**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Port of Baltimore, Maryland for the USS CONSTELLATION. This action is necessary to provide for the safety of life on navigable waters during the dead ship tow of the vessel from its mooring, to the Patapsco River, and return. This action will restrict vessel traffic in portions of the Inner Harbor, the Northwest Harbor, and the Patapsco River.

**DATES:** This rule is effective from 8:30 a.m. on September 13, 2002 to 12:30 p.m. on September 14, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the

docket, are part of docket CGD05-02-060 and are available for inspection or copying at Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ron Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, at (410) 576-2674.

**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 an NPRM. The USS CONSTELLATION will be towed "dead ship," which means that the vessel will be underway without the benefit of mechanical or sail propulsion. For this reason it is imperative that there be a clear transit route and a safe buffer zone around the USS CONSTELLATION and the vessels towing her. In addition, the Coast Guard expects a large spectator fleet. For safety concerns, it is in the public interest to have a safety zone in place for the event, since immediate action is needed to protect mariners against potential hazards associated with the turn-around of the USS CONSTELLATION.

**Background and Purpose**

The USS CONSTELLATION Museum is sponsoring its annual "turn-around" of the historic sloop-of-war USS CONSTELLATION in Baltimore, Maryland. The event is part of the ongoing maintenance and care of the ship, making sure that it weathers evenly on both sides. Planned events include the "dead ship" tow of the USS CONSTELLATION and an onboard salute with navy pattern cannon while off Fort McHenry National Monument and Historic Site.

The Coast Guard anticipates a large recreational boating fleet during this event. Operators should expect significant vessel congestion along the planned route.

The purpose of this rule is to promote maritime safety and protect participants and the boating public in the Port of Baltimore immediately prior to, during, and after the scheduled event. The rule will provide for a clear transit route for the participating vessels, and provide a safety buffer around the participating vessels while they are in transit. The rule will impact the movement of all vessels operating in the specified areas of the Port of Baltimore.

Interference with normal port operations will be kept to the minimum

considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled event.

**Discussion of Rule**

The historic sloop-of-war USS CONSTELLATION is scheduled to conduct an annual "turn-around" on September 13, 2002. The USS CONSTELLATION is scheduled to be towed from its berth, to Fort McHenry, and return, along a route of approximately 2.5 nautical miles (5 nautical miles total) that includes specified waters of the Inner Harbor, Northwest Harbor and Patapsco River.

The safety of dead ship tow participants requires that spectator craft be kept at a safe distance from the intended route during these vessels' movement. The Coast Guard proposes establishing a temporary moving safety zone around the USS CONSTELLATION annual "turn-around" participants on September 13, 2002 to ensure the safety of participants and spectators immediately prior to, during, and following the dead ship tow.

**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 Transportation (DOT)(44 FR 11040; February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The primary impact of this rule will be on vessels wishing to transit the affected waterways during the USS CONSTELLATION annual turn-around on September 13, 2002. Although this rule prevents traffic from transiting a portion of the Inner Harbor, Northwest Harbor, and Patapsco River during these events, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area.

**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 operate or anchor in portions of the Inner Harbor, the Northwest Harbor, and the Patapsco River in the Port of Baltimore, Maryland. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for a limited duration, affect only limited areas, and allow vessel traffic to pass safely around the safety zone. Before the effective period, we will issue maritime advisories widely available to users of the river to allow mariners to make alternative plans for transiting the affected areas.

**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.

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. It has not been designated by the

Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. By controlling vessel traffic during this event, this rule is intended to minimize environmental impacts of increased vessel traffic during the transits of event vessels. A “Categorical Exclusion Determination” is available in the docket for inspection or copying 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. From 8:30 a.m. on September 13, 2002 to 12:30 p.m. on September 14, 2002, add a temporary § 165.T05–060 to read as follows:

#### § 165.T05–060 Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD.

(a) *Definitions.*

(1) *Captain of the Port.* The Captain of the Port means the Commander, Coast Guard Activities Baltimore or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) *USS CONSTELLATION “turn-around” participants.* Includes the USS CONSTELLATION and its accompanying towing vessels.

(b) *Location.* The following area is a moving safety zone: all waters within 200 yards ahead of or 100 yards outboard or aft of the historic sloop-of-war USS CONSTELLATION, while operating on the Inner Harbor, Northwest Harbor and Patapsco River, Baltimore, Maryland.

(c) *Regulations.*

(1) All persons are required to comply with the general regulations governing

safety zones found in § 165.23 of this part.

(2) Persons or vessels requiring entry into or passage through a safety zone must first request authorization from the Captain of the Port or his designated representative. The Coast Guard vessels enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at (410) 576–2693.

(3) No vessel movement is allowed within the safety zone unless expressly authorized by the Captain of the Port or his designated representative.

(d) *Enforcement period.* This section will be enforced from 8:30 a.m. to 12:30 p.m. on September 13, 2002. If the event is postponed due to weather conditions, this section will be enforced from 8:30 a.m. to 12:30 p.m. on September 14, 2002.

Dated: September 3, 2002.

#### R.B. Peoples,

*Captain, U.S. Coast Guard, Captain of the Port of Baltimore.*

[FR Doc. 02–23275 Filed 9–10–02; 10:35 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[UT–001–0021a, UT–001–0041a; FRL–7264–7]

#### Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Vehicle Inspection and Maintenance Program; Utah County

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving a State Implementation Plan revision submitted by the Governor of Utah on December 7, 2001. This SIP submittal consists of a revision to Utah’s rule R307–110–34 and section X, Vehicle Inspection and Maintenance (I/M) Program, Part D, Utah County. This SIP submittal satisfies one of the conditions of EPA’s June 9, 1997 interim approval of Utah County’s improved vehicle I/M program SIP. The other condition of EPA’s interim approval was submittal of a demonstration that Utah County’s decentralized I/M program can obtain the same emission reduction credits as a centralized I/M program. The State submitted such a demonstration on May 20, 1999. These submittals meet the requirements of section 348 of the National Highway System Designation