

the APA and the requirements of the RFA.

#### List of Subjects in 29 CFR Part 1977

Administrative practice and procedure, Employment, Investigations, Safety, Whistleblowing.

#### Authority and Signature

James S. Frederick, Acting Assistant Secretary for Occupational Safety and Health, authorized the preparation of this document under the authority granted by Secretary's Order 08–2020 (May 15, 2020).

Signed at Washington, DC.

**James S. Frederick,**

*Acting Assistant Secretary for Occupational Safety and Health.*

For the reasons stated in the preamble, OSHA amends part 1977 of chapter XVII of title 29 as follows:

#### PART 1977—[AMENDED]

- 1. Revise the authority citation for part 1977 to read as follows:

**Authority:** 29 U.S.C. 657, 660; 5 U.S.C. 553; and Secretary of Labor's Order No. 08–2020 (85 FR 58393), 9–83 (48 FR 35736), or 12–71 (36 FR 8754), as applicable.

- 2. In § 1977.6, revise paragraph (b) to read as follows:

#### § 1977.6 Unprotected activities distinguished.

\* \* \* \* \*

(b) At the same time, to establish a violation of section 11(c), the employee's engagement in protected activity need not be the sole or primary consideration behind discharge or other adverse action. If the discharge or other adverse action would not have taken place "but for" engagement in protected activity, section 11(c) has been violated. See *Bostock v. Clay County, Ga.*, 140 S. Ct. 1731, 1739 (2020); *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338 (2013). Ultimately, the issue as to whether a discharge or other adverse action was because of protected activity will have to be determined on the basis of the facts in the particular case.

[FR Doc. 2021–19071 Filed 9–2–21; 8:45 am]

BILLING CODE 4510–26–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket Number USCG–2021–0505]

RIN 1625–AA08

#### Special Local Regulation; Chesapeake Bay, Between Sandy Point and Kent Island, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation for certain waters of the Chesapeake Bay. This action is necessary to provide for the safety of life on these navigable waters located between Sandy Point, Anne Arundel County, MD, and Kent Island, Queen Anne's County, MD, during a paddling event on September 26, 2021. This regulation prohibits persons and vessels from entering the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or the Coast Guard Event Patrol Commander.

**DATES:** This rule is effective from 7 a.m. to 1 p.m. on September 26, 2021.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0505 in the "SEARCH" box and click "SEARCH." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Ron Houck, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410–576–2674, email [D05-DG-SectorMD-NCR-MarineEvents@uscg.mil](mailto:D05-DG-SectorMD-NCR-MarineEvents@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
PATCOM Patrol Commander  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

ABC Events, Inc. of Arnold, MD, notified the Coast Guard that from 8 a.m. to noon on September 26, 2021, it will be conducting the Bay Bridge Paddle on the Chesapeake Bay, under and between the north and south

bridges that consist of the William P. Lane, Jr. (US–50/301) Memorial Bridges, located between Sandy Point, Anne Arundel County, MD and Kent Island, Queen Anne's County, MD. In response, on July 15, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Special Local Regulation; Chesapeake Bay, Between Sandy Point and Kent Island, MD" (86 FR 37270). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this paddle racing event. During the comment period that ended August 16, 2021, we received no comments.

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 date of the event, it would be impracticable to make the regulation effective 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the "Bay Bridge Paddle" event.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port Maryland-National Capital Region (COTP) has determined that potential hazards associated with the paddle races will be a safety concern for anyone intending to participate in this event or for vessels that operate within specified waters of the Chesapeake Bay between Sandy Point and Kent Island, MD. These hazards include numerous event participants crossing designated navigation channels and interfering with vessels operating within those channels, as well as operating within approaches to the Sandy Point State Park public boat launch facility and marina. The purpose of this rule is to protect event participants, non-participants and transiting vessels before, during, and after the scheduled event.

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

As noted above, we received no comments on our NPRM published July 15, 2021. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes special local regulations from 7 a.m. to 1 p.m. on September 26, 2021. The regulated area will cover all navigable waters of the Chesapeake Bay, adjacent to the

shoreline at Sandy Point State Park and between and adjacent to the spans of the William P. Lane Jr. Memorial Bridges, from shoreline to shoreline, bounded to the north by a line drawn from the western shoreline at latitude 39°01'05.23" N, longitude 076°23'47.93" W; thence eastward to latitude 39°01'02.08" N, longitude 076°22'40.24" W; thence southeastward to eastern shoreline at latitude 38°59'13.70" N, longitude 076°19'58.40" W; and bounded to the south by a line drawn parallel and 500 yards south of the south bridge span that originates from the western shoreline at latitude 39°00'17.08" N, longitude 076°24'28.36" W; thence southward to latitude 38°59'38.36" N, longitude 076°23'59.67" W; thence eastward to latitude 38°59'26.93" N, longitude 076°23'25.53" W; thence eastward to the eastern shoreline at latitude 38°58'40.32" N, longitude 076°20'10.45" W, located between Sandy Point and Kent Island, MD.

The duration of the special local regulations and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after the paddle races, scheduled from 8 a.m. to noon on September 26, 2021. The COTP and the Coast Guard Event PATCOM will have authority to forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area will be required to immediately comply with the directions given by the COTP or Event PATCOM. If a person or vessel fails to follow such directions, the Coast Guard may expel them from the area, issue them a citation for failure to comply, or both.

Except for Bay Bridge Paddle participants and vessels already at berth, a vessel or person will be required to get permission from the COTP or Event PATCOM before entering the regulated area. Vessel operators will be able to request permission to enter and transit through the regulated area by contacting the Event PATCOM on VHF-FM channel 16. Vessel traffic will be able to safely transit the regulated area once the Event PATCOM deems it safe to do so. A vessel within the regulated area must operate at safe speed that minimizes wake. A person or vessel not registered with the event sponsor as a participant or assigned as official patrols will be considered a non-participant. Official patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant,

or petty officer on board and displaying a Coast Guard ensign.

If permission is granted by the COTP or Event PATCOM, a person or vessel will be allowed to enter the regulated area or pass directly through the regulated area as instructed. Official patrols enforcing this regulated area can be contacted on VHF-FM channel 16 and channel 22A.

## 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. 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).

This regulatory action determination is based on the size and duration of the regulated area, which will impact a small designated area of the Chesapeake Bay for 6 hours. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the status of the regulated area. Moreover, the rule will allow vessels to seek permission to enter the regulated area, and vessel traffic will be able to safely transit the regulated area once the Event PATCOM deems it safe to do so.

### 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 regulated area 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 call or email 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.

### 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, Rev. 1, associated implementing instructions, 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 implementation of regulations within 33 CFR part 100 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area for 6 hours. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for the Record supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

## PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T05–0505 to read as follows:

### § 100.T05–0505 Bay Bridge Paddle, Chesapeake Bay, Between Sandy Point and Kent Island, MD.

(a) *Regulated area.* The regulations in this section apply to the following area: All navigable waters of the Chesapeake Bay, adjacent to the shoreline at Sandy Point State Park and between and adjacent to the spans of the William P. Lane Jr. Memorial Bridges, from shoreline to shoreline, bounded to the north by a line drawn from the western shoreline at latitude 39°01'05.23" N, longitude 076°23'47.93" W; thence eastward to latitude 39°01'02.08" N, longitude 076°22'40.24" W; thence southeastward to eastern shoreline at latitude 38°59'13.70" N, longitude 076°19'58.40" W; and bounded to the south by a line drawn parallel and 500 yards south of the south bridge span that originates from the western shoreline at latitude 39°00'17.08" N, longitude 076°24'28.36" W; thence southward to latitude 38°59'38.36" N, longitude 076°23'59.67" W; thence eastward to latitude 38°59'26.93" N, longitude 076°23'25.53" W; thence eastward to the eastern shoreline at latitude 38°58'40.32" N, longitude 076°20'10.45" W, located between Sandy Point and Kent Island, MD. The coordinates are based on datum NAD 1983.

(b) *Definitions.* As used in this section—

*Captain of the Port (COTP) Maryland-National Capital Region* means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

*Coast Guard Event Patrol Commander (Event PATCOM)* means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

*Official patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

*Participant* means all persons and vessels registered with the event sponsor as participating in the “Bay

Bridge Paddle” event, or otherwise designated by the event sponsor as having a function tied to the event.

(c) *Special local regulations.* (1) Except for participants and vessels already at berth, all non-participants are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area described in paragraph (a) of this section unless authorized by the COTP Maryland-National Capital Region or Event PATCOM.

(2) To seek permission to enter, contact the COTP Maryland-National Capital Region at telephone number 410–576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz) or the Event PATCOM on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Those in the regulated area must comply with all lawful orders or directions given to them by the COTP Maryland-National Capital Region or Event PATCOM.

(3) Official patrols will direct non-participants while within the regulated area. Official patrols enforcing the regulated area can be contacted on VHF–FM channel 16 and channel 22A.

(4) The COTP Maryland-National Capital Region will provide notice of the regulated area through advanced notice via Fifth Coast Guard District Local Notice to Mariners, broadcast notice to mariners, and on-scene official patrols.

(d) *Enforcement officials.* The Coast Guard may be assisted with marine event patrol and enforcement of the regulated area by other federal, state, and local agencies.

(e) *Enforcement period.* This section will be enforced from 7 a.m. to 1 p.m. on September 26, 2021.

Dated: August 30, 2021.

**David E. O'Connell,**

*Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.*

[FR Doc. 2021–19102 Filed 9–2–21; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF EDUCATION

### 34 CFR Part 600

[Docket ID ED–2018–OPE–0076]

RIN 1840–AD38

### Distance Education and Innovation; Correction

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Correcting amendments.

**SUMMARY:** On September 2, 2020, the Department of Education (Department) published in the **Federal Register** a final