

Dated: July 17, 2000.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Western Alaska 00-010]

RIN 2115-AA97

#### **Safety Zone; U. S. Marine Corps Water Jump, Resurrection Bay, Seward, Alaska**

**AGENCY:** Coast Guard, DOT

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary 1100 yard radius safety zone around a point located at 60°02'28.7"N latitude, 149°23'02.8"W longitude in Resurrection Bay, Seward, AK. This safety zone is implemented to ensure the safety of approximately 25 U. S. Marine Corps personnel who will be jumping from a C-130 aircraft into the waters of Resurrection Bay at a time when this waterway will be extremely busy with commercial and recreational vessels. Entry into, transit through, anchoring or remaining in this zone is prohibited unless authorized by the Captain of the Port, Western Alaska, or his authorized representative.

**DATES:** This regulation is effective from 12:30 p.m. until 4:30 p.m. on July 20, 2000.

**ADDRESSES:** Comments should be mailed to Commanding Officer, Coast Guard Marine Safety Office Anchorage, 510 "L" Street, Suite 100, Anchorage, AK 99501. Comments received will be available for inspection and copying at Coast Guard Marine Safety Office Anchorage. Normal Office hours are 7:30 a.m. to 4 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Mark McManus, USCG Marine Safety Office, Anchorage, at (907) 271-6762.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Regulation publication. Publishing an

NPRM and delaying its effective date would be contrary to the public interest since the scope of the activities requiring this safety zone, and other logistical details surrounding this port visit, were not finalized until a date fewer than 30 days prior to the project date. Furthermore, immediate action is necessary to provide for the safe transit of the vessel.

Although this rule is being published as a temporary final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure the rule is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed in **ADDRESSES** in this preamble. Those providing comments should identify the docket number for the regulation (COTP Western Alaska 00-010) and also include their name, addresses, and reason(s) for each comment presented. Based upon the comments received, the regulation may be changed.

The Coast Guard plans no public meeting. Persons may request a public meeting by writing the Marine Safety Office in Anchorage, Alaska at the address listed in **ADDRESSES** in this preamble.

##### **Background and Purpose**

Due to the fact that Resurrection Bay is a relatively narrow waterway, that commercial vessel traffic transits routinely through this area conducting business at the Port of Seward, and the large amount of recreational vessel traffic that utilize this waterway, the Coast Guard is establishing a 1100 yard radius safety zone to ensure the safety of 25 U.S. Marine Corps personnel that will be jumping into Resurrection Bay from a C-130 aircraft on July 20, 2000.

##### **Discussion of the Regulation**

The Coast Guard is establishing a temporary 1100 yard safety zone around a point located at 60°02'28.7"N latitude, 149°23'02.8"W longitude in Resurrection Bay, Seward, AK. This safety zone is implemented to ensure the safety of approximately 25 U. S. Marine Corps personnel who will be jumping from a C-130 aircraft into the waters of Resurrection Bay at a time when this waterway will be extremely busy with commercial and recreational vessels. The proposed safety zone is intended to become effective at 12:30 a.m. on July 20, 2000, and terminate at 16:30 p.m. on July 20, 2000. Entry into, transit through, anchoring or remaining in this zone is prohibited unless authorized by the Captain of the Port or his authorized representative.

##### **Regulatory Evaluation**

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget 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). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include small businesses and not-for-profit organizations that are not dominant in their respective fields, and governmental jurisdictions with populations less than 50,000. Commercial and recreational vessel traffic will be able to transit into and out of the Port of Seward via the traffic lanes that will be open on the east and west sides of the safety zone area during the entire effective period of this regulation. For the same reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule is not expected to have a significant economic impact on any substantial number of entities, regardless of their size.

##### **Assistance for Small Entities**

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lieutenant Mark McManus, Coast Guard Marine Safety Office Anchorage, AK, at (907) 271-6762.

##### **Collection of Information**

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

## Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

## Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under Figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

## Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of \$100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected.

No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of \$100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

## List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water). Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

### PART 165—[AMENDED]

1. The authority citation for Part 165 reads as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.401-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T17-010 is added to read as follows:

#### § 165.T17-010 Safety Zone; U. S. Marine Corps Water Jump, Resurrection Bay, Seward, Alaska

(a) *Description.* The following area is a Safety Zone: All navigable waters within a 1100 yard radius around a point located at 60°02'28.7"N latitude,

149°23'02.8"W longitude in Resurrection Bay, Seward, AK.

(b) *Effective Dates.* This proposed regulation is effective at 12:30 p.m. on July 20, 2000, and terminates at 16:30 p.m. on July 20, 2000.

(c) *Regulations.* (1) The Captain of the Port means the Captain of the Port, Western Alaska. The Captain of the Port may authorize or designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf.

(2) The general regulations governing safety zones contained in 33 CFR 165.23 apply. No person or vessel may enter, transit through, anchor or remain in this safety zone, with the exception of attending vessels, without first obtaining permission from the Captain of the Port, Western Alaska, or his on scene representative.

The U. S. Coast Guard Cutter *Mustang* will be enforcing the safety zone and can be reached on marine VHF channel 16. The Captain of the Port's representative can also be contacted by telephone at (907) 271-6700.

Dated: June 27, 2000

**W.J. Hutmacher,**

*Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-00-187]

RIN 2115-AA97

#### Safety Zone: Oil Spill Cleanup Zone, Middletown, Rhode Island

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone in the waters of Narragansett Bay shoreward of the area marked by a high flyer (flagged metal pole) at the westernmost end of Midway Pier in Portsmouth; southwest to a high flyer 250 yards west of McAllister Point; south to a high flyer at the first bend in the Coddington Cove Breakwater. The safety zone is needed to safeguard the public and pollution response personnel during oil cleanup operations. Entry into this zone is prohibited unless authorized by the Captain of the Port, Providence, Rhode Island.

**EFFECTIVE DATES:** This rule is effective from 3 p.m., Wednesday July 12, 2000, until 6 p.m. on Monday July 31, 2000.

**ADDRESSES:** You may mail comments and related material to Marine Safety Office Providence, 20 Risho Avenue, East Providence, Rhode Island 02914. The Prevention Department maintains the public docket for this rulemaking.

Comments and related material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Providence between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LCDR James McLaughlin at Marine Safety Office Providence, (401) 435-2300.

### SUPPLEMENTARY INFORMATION

#### Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. This temporary final rule establishes a safety zone around the cleanup operations being conducted after the spill of No. 6 oil from the barge Penn 460. The safety zone is needed to safeguard the public, and cleanup personnel, from the hazards associated with cleanup vessels and beach response personnel operating in the area. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close portions of Narragansett Bay to protect the public and response personnel.

#### Background and Purpose

Barge Penn 460 experienced an oil spill of approximately 14,000 gallons of No. 6 oil on July 5, 2000. Due to heavy recreational traffic in vicinity of the spill, a safety zone is needed to ensure the safety of recreational traffic and response vessels and personnel. The exclusion of recreational traffic will minimize the risk of wake damage to response vessels and personnel, and will eliminate the risk of collision. Entry into this safety zone is prohibited unless authorized by the Captain of the Port (COTP), Providence, RI. A safety zone [CGD01-00-250] was previously established on Friday July 7, 2000, for this same event. This previous safety zone prohibited entry into the waters of Narragansett Bay within 500 yards of the shoreline from the base of the Coddington Cove, Middletown, Rhode Island, breakwater to the waterside end of the pier located 2,500 yards Northeast of Coddington Cove. However, the