

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 E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

The Coast Guard analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose an environmental risk to health or risk to safety that may disproportionately affect children.

### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, (34)(g), of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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.

2. Add temporary section 165.T01-024 to read as follows:

#### § 165.T01-024 Safety Zone: Fore River Bridge Repairs—Weymouth, Massachusetts.

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

All waters of Boston Inner Harbor within a thirty (30) foot radius of the TMC construction barge located under the Fore River Bridge.

(b) *Effective Date.* This section is effective from February 21 until December 31, 2001.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone is prohibited unless

authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: February 20, 2001.

**J.R. Whitehead,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. 01-5602 Filed 3-7-01; 8:45 am]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP San Diego, CA; 01-002]

RIN 2115-AA97

#### Safety Zone: Mission Bay, San Diego, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the navigable waters of the channel entrances to Mission Bay, San Diego, CA. This safety zone has been established to safeguard vessels from the severe swell and waves that are being encountered at the channel entrances to Mission Bay. The Captain of the Port retains the discretion to authorize entry into, transit through, or anchoring within this zone as weather and navigation conditions permit.

**DATES:** This temporary rule becomes effective at 8 a.m. (PST) on February 21, 2001, and runs until 8 p.m. (PST) on April 15, 2001. If the need for the safety zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and announce the fact via Broadcast Notice to Mariners.

**ADDRESSES:** Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101-1064.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Nicole Lavorgna, USCG, c/o U.S. Coast Guard Captain of the Port, telephone (619) 683-6495.

**SUPPLEMENTARY INFORMATION:**

#### Regulatory Information

In accordance with 5 U.S.C. 553, a notice of proposed rule making (NPRM)

was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying the effective date would be contrary to the public interest because emergency weather and navigation conditions require the immediate closure of this area.

#### Discussion of Regulation

This safety zone is necessary to safeguard vessels from severe swell and waves that are being encountered at the channel entrances to Mission Bay. The safety zone is established to restrict vessels from capsizing, grounding, and other navigational mishaps that may occur due to severe weather and navigation conditions currently being encountered at the channel entrance to Mission Bay. Entry into, transiting through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port. The safety zone will be in place from 8 a.m. (PST) on February 21, 2001, and runs until 8 p.m. (PST) on April 15, 2001. The safety zone runs through mid April because past weather trends indicate sporadic harsh weather through this date. The safety zone will consist of all navigable waters located within a 400 yard circular radius surrounding the end of the Mission Bay Channel entrance north jetty.

#### Regulatory Evaluation

This temporary regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review 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). Due to the short duration and limited scope of implementation for the safety zone, and because commercial traffic will have an opportunity to request authorization to transit, the Coast Guard expects the economic impact of this rule to be so minimal that 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. 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 § 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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 Petty Officer Nicole Lavorgna, U.S. Coast Guard Marine Safety Office San Diego at (619) 683-6495.

#### Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq).

#### Federalism

The Coast Guard has analyzed this temporary regulation under the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environmental Assessment

The Coast Guard has considered the environmental impact of this temporary regulation and concluded that under Chapter 2.B.2. of Commandant Instruction M16475.1C, Figure 2-1, paragraph (34)(g), it will have no significant environmental impact and it is categorically excluded from further environmental documentation.

#### Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Public Law 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.

#### Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this temporary final rule and reached the following conclusions:

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

Executive Order 12875, Enhancing the Intergovernmental Partnership. This Rule will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

Executive Order 12988, Civil Justice Reform. This Rule meets applicable standards in section 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This Rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

#### Regulation

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

#### PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

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

2. A new § 165.T11-030 is added to read as follows:

#### § 165.T11-030 Safety zone: mission bay, San Diego, CA.

(a) *Location.* This safety zone consists of all navigable waters located within a 400 yard circular radius surrounding the end of the Mission Bay Channel entrance north jetty.

(b) *Effective Date.* This section is effective at 8 a.m. (PST) on February 21, 2001, and runs until 8 p.m. (PST) on April 15, 2001. If the Mission Bay closure reopens prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative.

Dated: February 21, 2001.

**J.M. Farley,**

*Commander, U.S. Coast Guard, Captain of the Port, San Diego.*

[FR Doc. 01-5600 Filed 3-7-01; 8:45 am]

**BILLING CODE 4910-15-U**

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

#### Approval and Promulgation of Implementation Plans

##### *CFR Correction*

In Title 40 of the Code of Federal Regulations, Part 52 (§ 52.1019 to end), revised as of July 1, 2000, on page 460, § 52.2026 is corrected by removing the introductory sentence, and removing and reserving paragraphs (a) and (b).

[FR Doc. 01-55506 Filed 3-7-01; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Part 422

#### Medicare + Choice Program

##### *CFR Correction*

In Title 42 of the Code of Federal Regulations, parts 400 to 429, revised as of Oct. 1, 2000, in part 422, on page 777, § 422.156 is corrected by correctly revising paragraph (e)(1) to read as follows: