

**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 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, 160.5; 49 CFR 1.46.

2. From June 10 until August 30, 2002, add temporary § 165.T02–031 to read as follows:

**§ 165.T02–031 Safety Zone: Fore River Channel, Weymouth Fore River, Weymouth, MA.**

(a) *Location.* The following area is a safety zone: 200 yards upstream and 100 yards downstream of the Route 3A bridge on all waters within the Weymouth Fore River main shipping channel, which is bounded by 42°14'34" N, 070°58'03" W; 42°14'44" N, 070°57'59" W; 42°14'45" N, 070°58'03" W; and 42°14'35" N, 070°58'05" W.

(b) *Effective Date.* This section is effective from June 10 to August 30, 2002. Within this period the zone will be enforced during the following closure periods: from sunrise Monday June 10, 2002 until sunset on Saturday June 15, 2002, sunrise Monday June 24, 2002 until sunset on Saturday June 29, 2002, sunrise Monday July 15, 2002 until sunset on Saturday July 20, 2002, and sunrise Monday July 29, 2002 until sunset on Saturday August 3, 2002. In the event that the contractor is unable to complete the prescribed work during these times, two contingency closures may be enforced if needed from sunrise Monday August 12, 2002 until sunset Saturday August 17, 2002, and from sunrise Monday August 26, 2002 until noon on Friday August 30, 2002. If the Captain of the Port (COTP) determines that a safety zone in effect cannot be used due to unforeseen conditions (prompting the need to use a contingency closure), the COTP will discontinue the safety zone for that period and issue a broadcast notice to mariners (BNTM) so informing the public.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston. Requests to enter the safety zone can be made by calling Marine Safety

Office Boston at (617) 223–3000. (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: May 29, 2002.

**M.E. Landry,**

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

[FR Doc. 02–14055 Filed 6–4–02; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 165**

**[COTP San Juan–02–049]**

**RIN 2115–AA97**

**Safety Zone; Swimming Across San Juan Harbor, San Juan, Puerto Rico**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary fixed safety zone for the Swimming Across San Juan Harbor event in San Juan Harbor, San Juan, Puerto Rico. This safety zone is necessary to protect swimmers and provide for the safety of life on navigable waters by excluding vessels from transiting in the swimming area.

**DATES:** This rule is effective from 9 a.m. on Sunday July 21, 2002 until 12 (noon) on Sunday July 21, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP San Juan, Puerto Rico 02–049] and are available for inspection or copying at Marine Safety Office San Juan, #5 La Puntilla Final, Old San Juan, PR 00901–1800 between 7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Reyes, Greater Antilles Section, at (787) 729–5381.

**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 a NPRM. Publishing a NPRM, which would incorporate a

comment period before a final rule could be issued, would be contrary to the public interest since immediate action is needed to protect the public and waterways of the United States.

**Background and Purpose**

This rule is required to provide for the safety of life on navigable waters because numerous swimmers will be crossing navigable channels in the commercial port of San Juan. This rule creates a safety zone area that will prohibit non-participating vessels from entering the safety zone during the event without the authorization of the Captain of the Port of San Juan, Puerto Rico. The safety zone area is a rectangular shape starting at point 1, La Puntilla Final, Coast Guard Base at position 18°27'33" N, 066°07'00" W, then South to point 2, Catano Ferry Pier at position 18°26'36" N, 066°07'00" W, then East to point 3, Punta Catano at position 18°26'40" N, 066°06'48" W, then North to point 4 at position 18°27'40" N, 066°06'49" W and back west to the origin, point 1.

Law enforcement vessels can be contacted on VHF Marine Band Radio, Channel 16 or telephone number (787) 729–2040. The United States Coast Guard Communications Center will notify the public via Broadcast Notice to Mariners VHF Marine Band Radio, Channel 22 when the zone is activated.

**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). The Coast Guard expects the economic impact of this safety zone to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary because entry into the safety zone is prohibited for a limited time and vessels may be allowed to enter the safety zone with the express permission of the Captain of the Port of San Juan or his designated representative.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon 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 because the safety zone will only be in effect for a limited time and vessels may be allowed to enter the safety zone with the express permission of the Captain of the Port of San Juan, Puerto Rico or his designated representative.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 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 requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implication 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. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not affect 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.

#### Environmental

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

#### 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 relationships 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 Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs as a

significant energy action has not designated it. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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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, 6.04-6 160.5; 49 CFR 1.46.

2. From 9 a.m. until 12 (noon) on July 21, 2002, a new temporary § 165.T07-049 is added to read as follows:

#### § 165.T07-049 Safety Zone; Swimming Across San Juan Harbor, San Juan, Puerto Rico.

(a) *Location.* The safety zone area is a rectangular shape starting at point 1, La Puntilla Final, Coast Guard Base at position 18°27'33" N, 066°07'00" W, then South to point 2, Catano Ferry Pier at position 18°26'36" N, 066°07'00" W, then East to point 3, Punta Catano at position 18°26'40" N, 066°06'48" W, then North to point 4 at position 18°27'40" N, 066°06'49" W and back west to the origin, point 1. All coordinates referenced use Datum: NAD 83.

(b) *Regulations.* All vessels, with the exception of event participant vessels, are prohibited from entering the safety zone without the express permission of the Captain of the Port of San Juan, Puerto Rico or his designated representative. After the termination of the Swimming Across San Juan Harbor, San Juan, Puerto Rico, all vessels may resume normal operations.

(c) *Effective Dates.* The safety zone is effective from 9 a.m. on Sunday July 21, 2002 until 12 (noon) on Sunday July 21, 2002.

Dated: May 26, 2002.

**J.A. Servidio,**

*Commander, Coast Guard, Captain of the Port.*

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