

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 proposed rule would 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.

#### Environment

We have 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. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

#### 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 proposed 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.

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

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

For the reasons set out 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. A new temporary § 165.T09–016 is added to read as follows:

#### § 165.T09–016 Safety Zone; Lake Macatawa, Holland, MI.

(a) **Location.** The following area is a safety zone: the waters of Lake Macatawa off Dunton Park encompassed by a triangle starting at the Dunton Park dock; to the eastern buoy at 42°47.6' N, 086°07.1' W; to the western buoy at 42°47.626' N, 086°07.283' W; and back to the starting point (NAD 1983).

(b) **Effective date.** This section is effective from 6:30 a.m. (local) until 12 p.m. (local), on June 15, 2002. The designated Patrol Commander on scene may be contacted on VHF Channel 16.

(c) **Regulations.** This safety zone is being established to protect participants and spectators during a planned triathlon. In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated Patrol Commander.

Dated: May 31, 2002.

**R.E. Seebald,**

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

[FR Doc. 02-14520 Filed 6-7-02; 8:45 am]

**BILLING CODE 4910-15-P**

#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

##### 33 CFR Part 165

[COTP San Francisco Bay 02-008]

RIN 2115-AA97

#### Safety Zone; North Pacific Ocean, Gulf of the Farallones, Offshore of San Francisco, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Gulf of the Farallones, North Pacific Ocean, surrounding the site of a sunken freight vessel, JACOB LUCKENBACH, from which the Coast Guard and other government agencies are removing oil trapped inside the wreck. The purpose of this safety zone is to protect persons and vessels from hazards associated with oil removal operations. Persons and vessels are prohibited from entering into or transiting through the safety zone unless authorized by the Captain of the Port, or his designated representative.

**DATES:** The rule will be in effect from 11:59 p.m. (PDT) on May 14, 2002 to 11:59 p.m. (PDT) July 31, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP San Francisco Bay 02-008] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Francisco Bay, Building 14, Coast Guard Island, Alameda, California 94501-5100 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Ross Sargent, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437-3073.

##### 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. Although an investigation revealed in February 2002 that the JACOB LUCKENBACH wreck was the source of recent oil discharges, the decision to remove the oil from the sunken vessel, in order to protect against future discharges, was not made until recently. Publishing an NPRM and delaying the effective date would be contrary to the public interest since the oil removal operations necessitating this safety zone would

likely terminate before the rulemaking process was complete.

For the same reasons stated above, 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**.

#### Background and Purpose

In November of 2001, the Coast Guard and other cognizant government agencies began receiving reports of oiled birds washing ashore along the California coastline between Monterey and Sonoma counties. Weeks of searching for surface sheens yielded negative results and prompted responding government agencies to consider sunken vessels in the area as possible sources of the contaminating oil. By February 2002, responding agencies identified the sunken freight vessel JACOB LUCKENBACH as the most probable source and began deploying camera-equipped remotely operated vehicles (ROVs) in order to view the sunken vessel. During this period, the Coast Guard learned that recreational and commercial divers had been diving on or were planning to dive on the sunken vessel while responding agencies were conducting the on-scene investigation. In February 2002, the Coast Guard established a temporary safety zone in the navigable waters surrounding the JACOB LUCKENBACH in order to protect persons and vessels from hazards associated with the investigation operations. That temporary safety zone expired at the end of April 2002.

The Coast Guard and other government agencies have reviewed the results of the investigation and have determined that removal of the oil from within the JACOB LUCKENBACH is the most prudent means of protecting against future oil discharges. Removal of the oil will require several surface and submersible vessels and associated equipment, all of which present hazards, particularly collision dangers, to persons and vessels in the area.

#### Discussion of Rule

In order to facilitate safe oil removal operations and to guard against the possibility of an accidental discharge of a large quantity of oil into the environment, the Coast Guard is establishing a temporary safety zone in the navigable waters surrounding the sunken vessel. The safety zone encompasses all waters from the surface of the ocean to the bottom within a one nautical mile radius centered at 37°40.38' N, 122°47.59' W, the approximate position of the JACOB

LUCKENBACH. Entry into, transit through or anchoring in this zone by persons, vessels or ROVs is prohibited, unless authorized by the Captain of the Port, or his designated representative.

#### 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). Due to the short duration and limited geographic scope of the safety zone, 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. 601–612), we 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 these reasons and the reasons stated in the Regulatory Evaluation section above, 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.

#### Assistance For Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard offers to assist small entities in understanding the rule so that they could 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 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 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 requirements 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 M16475.1D, this rule is categorically excluded from further environmental documentation because we are establishing a safety zone. 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.

#### Regulation

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. Add § 165.T11-082 to read as follows:

#### § 165.T11-082 Safety Zone; North Pacific Ocean, Gulf of the Farallones, offshore of San Francisco, CA.

(a) **Regulated area.** The following area is a safety zone: all waters from the

surface of the ocean to the bottom within a one nautical mile radius centered at 37°40.38' N, 122°47.59' W (NAD 83).

(b) **Regulations.** In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone by persons, vessels or remotely operated vehicles is prohibited, unless authorized by the Captain of the Port, or a designated representative thereof.

(c) **Effective dates.** The section will be in effect from 11:59 p.m. (PDT) on May 14, 2002 to 11:59 p.m. (PDT) on July 31, 2002. If the need for the safety zone ends prior to the scheduled termination time, the Captain of the Port will cease enforcement of the safety zone and will announce that fact via Broadcast Notice to Mariners.

Dated: May 14, 2002.

**L.L. Hereth,**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay.*

[FR Doc. 02-14522 Filed 6-7-02; 8:45 am]

**BILLING CODE 4910-15-P**

#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

##### 33 CFR Part 165

**[CGD05-02-033]**

**RIN 2115-AA97**

##### Safety Zone; Chesapeake Bay, Hampton Roads, James River, VA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone encompassing the M/V DEL MONTE, while conducting explosive exercises. This action is intended to restrict vessel traffic on James River within a 1500-foot radius of the vessel. The safety zone is necessary to protect mariners from the hazards associated with the exercises being conducted. Entry into this zone is prohibited unless authorized by the Captain of the Port Hampton Roads or his designated representative.

**DATES:** This temporary final rule is effective from 8:30 a.m. (local time), on June 3, 2002 to 4 p.m. (local time), on June 21, 2002.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Norfolk, Virginia, 23510 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

LTJG Monica Acosta, project officer, USCG Marine Safety Office Hampton Roads, at (757) 441-3453.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with requirements of 5 U.S.C. 553(b) (B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to protect mariners from this vessel. For similar reasons, 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**.

#### Background and Purpose

The Coast Guard is establishing a temporary safety zone encompassing the M/V DEL MONTE, in approximate position 37°06'11" N, 076°38'40" W. The safety zone will restrict vessel traffic on a portion of the James River, within a 1500-foot radius of the M/V DEL MONTE. The safety zone is necessary to protect mariners from the hazards associated with the explosives exercises.

The safety zone will be effective from 8:30 a.m. (local time) on June 3, 2002 to 4 p.m. (local time), on June 21, 2002. Entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representative. Public notifications will be made prior to the transit via marine information broadcasts.

#### Regulatory Evaluation

This temporary final 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. 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).

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) The COTP may authorize access to the safety zone; (ii) the safety zone will be in effect for a limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.