

2. In § 155.200, add the definition for “Sea state 5” in alphabetic order to read as follows:

**§ 155.200 Definitions.**

\* \* \* \* \*  
*Sea state 5*, the equivalent of Beaufort number or force 6, is a sea condition with winds speeds of 22 to 27 knots and classified as “strong breeze”, and with waves measuring 2.5 to 4 meters in height and classified as “rough”.

\* \* \* \* \*

3. Add § 155.490 to read as follows:

**§ 155.490 Tank level or pressure monitoring devices.**

(a) *Applicability*. The tank level or pressure monitoring (TLPM) device requirements of this section apply to—

(1) U.S.-flag single-hull tank vessels carrying oil or oil residue as cargo; and

(2) Foreign-flag single-hull tank vessels carrying oil or oil residue as cargo when operating in the navigable waters of the United States and the exclusive economic zone (EEZ) when bound to or from a port or place in the United States.

(b) By October 17, 2007, each vessel required under paragraph (a) of this section to meet the requirements of this section, must have a tank level or pressure monitoring device that is permanently installed on each cargo tank and meets the requirements of this section.

(c) Each device must meet the following requirements:

(1) Be intrinsically safe as per 46 CFR 111.105;

(2) Indicate any loss of power or failure of the tank level or pressure monitoring device and monitor the condition of the alarm circuitry and sensor by an electronic self-testing feature;

(3) Alarm at or before the cargo in the cargo tank either increases or decreases by a level of one percent from the cargo quantity in the tank after securing cargo transfer operations;

(4) Operate in conditions up to sea state 5, moisture, and varying weather conditions; and

(5) Have audible and visual alarm indicators which are distinctly identifiable as cargo tank level or pressure monitoring alarms that can be seen and heard on the navigation bridge of the tank ship or towing vessel and on the cargo deck area.

(d) Double-hull tank vessels are exempt from the requirements of this section.

(e) This section does not apply to tank vessels that carry asphalt as their only cargo.

**PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS**

4. The authority citation for 33 CFR part 156 is revised to read as follows:

**Authority:** 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703a, 3715; E.O. 11735, 3 CFR 1971-1975 Comp., p. 793. Section 156.120(bb) and (ee) are also issued under 46 U.S.C. 3703.

5. In § 156.120 add paragraph (ee) as follows:

**§ 156.120 Requirements for transfer.**

\* \* \* \* \*  
 (ee) Each tank level or pressure monitoring device required under 33 CFR 155.490 must be activated and monitored whenever the tank is not actively being subjected to cargo operations.

*46 CFR*

**PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS**

6. The authority citation for part 32 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3703, 3719; E.O. 12234, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; Subpart 32.59 also issued under the authority of Sec. 4109, Pub. L. 101-308, 104 Stat. 515.

**§ 32.22T [Removed]**

7. Remove subpart 32.22T.

Dated: September 11, 2002.

**Thomas H. Collins,**

*Admiral, Coast Guard, Commandant.*

[FR Doc. 02-23621 Filed 9-16-02; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

**[COTP San Diego 02-019]**

**RIN 2115-AA97**

**Security Zone; Naval Submarine Base San Diego, San Diego Bay, CA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily expanding the geographical boundaries of the permanent security zone at Naval Submarine Base San Diego, California at the request of the U.S. Navy. The additional area created by this temporary rule will accommodate the Navy's placement of an anti-small boat barrier boom on the perimeter of the zone. Entry into this zone is prohibited unless authorized by

the Captain of the Port, the Commander, Naval Base San Diego, or the Commander, Submarine Force, U.S. Pacific Fleet Representative, West Coast.

**DATES:** This rule is effective from 12:01 a.m. on September 11, 2002 to 11:59 p.m. on February 11, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket COTP San Diego 02-019, and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego California 92101, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Rick Sorrell, Chief of Port Operations, Marine Safety Office San Diego, at (619) 683-6495.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this temporary regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. While the Navy has been implementing many force protection measures since the attack on the U.S.S. Cole and the attacks of September 11, 2001, the Chief of Naval Operations has recently emphasized the need for the expanded use of anti-small boat barrier booms around Navy vessels in U.S. ports to protect against attacks similar to the one launched against the U.S.S. Cole. In addition, the Office of Homeland Security through its web site has described the current nationwide threat level as “Elevated.” According to the Office of Homeland Security, an Elevated Condition is declared when there is a significant risk of terrorist attacks. The Coast Guard believes that issuing an NPRM for this temporary rule and thereby delaying implementation of the expanded security zone would be against the public interest during this elevated state of alert.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the protection of the Naval vessels, their crew, and national security.

Furthermore, in order to protect the interests of national security, the Coast Guard is promulgating this temporary regulation to provide for the safety and security of U.S. Naval vessels in the navigable waters of the United States.

As a result, the establishment and enforcement of this security zone is a function directly involved in and necessary to military operations. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rulemaking and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

The Coast Guard has plans to make the expansion of the security zone permanent. Towards that end, the Coast Guard will initiate notice and comment rulemaking before issuing any final rule.

#### Background and Purpose

The Coast Guard is expanding the current security zone (33 CFR 165.1103) to allow the U.S. Navy to put an anti-small boat barrier boom at Naval Submarine Base San Diego. The expansion of this security zone is needed to ensure the physical protection of naval vessels moored in the area by providing adequate standoff distance. The expansion of this security zone will also prevent recreational and commercial craft from interfering with military operations involving all naval vessels home-ported at Naval Submarine Base San Diego and it will protect transiting recreational and commercial vessels, and their respective crews, from the navigational hazards posed by such military operations. In addition, the Navy has been reviewing all aspects of its anti-terrorism and force protection posture in response to the attack on the U.S.S. COLE and the terrorist attacks of September 11, 2001. The expansion of this security zone will safeguard vessels and waterside facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port, Commander, U.S. Naval Base San Diego, or the Commander, Submarine Force, U.S. Pacific Fleet Representative, West Coast. Vessels or persons violating this section would be subject to the penalties set forth in 50 U.S.C. 192 and 18 U.S.C. 3571: Seizure and forfeiture of the vessel, a monetary penalty of not more than \$250,000, and imprisonment for not more than 10 years. The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the U.S. Navy.

#### 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. 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 implementation of this security zone is necessary for the protection of the United States' national security interests. The size of the zone is the minimum necessary to allow for safe placement of the anti-small boat boom while providing adequate protection for U.S. Naval vessels, their crews, adjoining areas, and the public. The entities most likely to be affected, if any, are pleasure craft engaged in recreational activities and sightseeing in close proximity to the Naval Submarine Base. Any hardships experienced by persons or vessels wishing to approach the Naval Submarine Base are considered minimal compared to the national interest in protecting U.S. Naval vessels, their crews, and the public. The expansion of the security zone will not impact navigation in the shipping channel.

#### 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 impact on a substantial number of small entities. The term "small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

This security zone will not have a significant impact on a substantial number of small entities because these security zones are only closing small portions of the navigable waters adjacent to Naval Base San Diego. In addition, there are no small entities shoreward of the security zone. For these reasons, and the ones discussed in the previous section, the Coast Guard certifies, under 5 U.S.C. 605(b), that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

#### Assistance for Small Entities

In accordance with § 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offers 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 your small

business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander Rick Sorrell, Chief of Port Operations, Marine Safety Office San Diego, at (619) 683–6495.

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 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 and have determined that this rule 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.ID, this rule, which temporarily modifies an existing security zone, is categorically excluded from further environmental documentation. 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.

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, and 160.5; 49 CFR 1.46.

**§ 165.1103 [Suspended]**

2. Temporarily suspend § 165.1103 from 12:01 a.m. on September 11, 2002 to 11:59 p.m. on February 11, 2003.

3. Add new temporary § 165.T11-049 to read as follows:

**§ 165.T11-049 Security Zone: Naval Submarine Base San Diego, San Diego Bay, CA.**

(a) *Location.* The following area is a security zone: The water area adjacent to Naval Submarine Base, San Diego, California, enclosed by a line connecting points commencing at a point on the shoreline of Ballast Point, at 32°41'11.2" N, 117°13'57.0" W. (Point A), thence northerly to 32°41'31.8" N, 117°14'00.6" W. (Point B), thence southwesterly to 32°41'32.7" N, 117°14'03.2" W. (Point C), thence westerly to 32°41'30.5" N, 117°14'17.5" W. (Point D), thence generally southeasterly along the shoreline of the Naval Submarine Base to the point of beginning. (Point A).

(b) *Effective period.* This temporary section is effective from 12:01 a.m. on September 11, 2002 to 11:59 p.m. on February 11, 2003.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Base San Diego, or the Commander, Submarine Force, U.S. Pacific Fleet Representative, West Coast.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the U.S. Navy.

Dated: August 28, 2002.

**Robert McFarland,**

*Lieutenant Commander, Coast Guard, Acting Captain of the Port, San Diego, California.*

[FR Doc. 02-23510 Filed 9-16-02; 8:45 am]

**BILLING CODE 4910-15-P**

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

**[COTP San Diego 02-018]**

**RIN 2115-AA97**

**Security Zone; Naval Base Coronado, San Diego Bay, CA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily expanding the geographical boundaries of the permanent security zone at Naval Base Coronado, California (33 CFR 165.1104) at the request of the U.S. Navy. The additional area created by this temporary rule will accommodate the Navy's placement of an anti-small boat barrier boom within the zone. Entry into this zone is prohibited unless authorized by the Captain of the Port (COTP) San Diego, the Commander, Naval Air Force, U.S. Pacific Fleet, the Commander, Navy Region Southwest, or the Commanding Officer, Naval Base Coronado.

**DATES:** This rule is effective from 12:01 a.m. on September 11, 2002 to 11:59 p.m. on February 11, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket COTP San Diego 02-018, and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego California 92101, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Rick Sorrell, Chief of Port Operations, Marine Safety Office San Diego, at (619) 683-6495.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this temporary regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. While the Navy has been implementing many force protection measures since the attack on the U.S.S. Cole and the attacks of September 11, 2001, the Chief of Naval Operations has recently emphasized the need for the expanded use of anti-small boat barrier booms around Navy vessels in U.S. ports to protect against attacks similar to the one launched against the U.S.S. Cole. In addition, the Office of Homeland Security through its web site has described the current nationwide