

§ 165.T09-0490 Safety zone; Erie Summer Festival of the Arts, Lake Erie, Presque Isle Bay, Erie, PA.

(a) *Location.* The following area is a temporary safety zone: all waters of Lake Erie, Presque Isle Bay, Erie, PA, within a 420 ft radius of position (42°07'45" N, 080°06'20" W). (DATUM: NAD 83).

(b) *Effective period.* This regulation is effective from 10 p.m. to 11 p.m. on June 28, 2008.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his on-scene representative.

(3) The "on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: June 13, 2008.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0569]

RIN 1625-AA87

Security Zone; Waters Adjacent 10th Avenue Marine Terminal, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone in the waters adjacent to the 10th Avenue Marine Terminal, San Diego Bay, San Diego, CA. This action is needed to protect the U.S. Naval vessels, their crews and the public during a military out load evolution from sabotage or other subversive acts, accidents, criminal actions or other causes of a similar nature. Entry, transit or anchoring in this zone is prohibited unless authorized by the Captain of the Port San Diego, or his designated representative.

DATES: This rule is effective from 7 a.m. on June 25, 2008, to 7 p.m. on June 28, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of Docket No. 2008-0569 and are available for inspection or copying at Coast Guard Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101-1064 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Chief Petty Officer Eric Carroll, Waterways Management, Coast Guard Sector San Diego, at telephone (619) 278-7268.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. 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. In addition, even if an NPRM were otherwise required, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. 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**. It would be contrary to public interest to delay the effective date of this temporary rule.

Background and Purpose

The U.S. Military Surface Deployment and Distribution Command notified the Coast Guard concerning military out load operations at the Port of San Diego's Tenth Avenue Marine Terminal for the dates given. This temporary security zone is needed to protect the U.S. Naval vessels and their crews for the duration of the evolution of military out load operations.

Discussion of Rule

The security zone generally consists of the navigable waters surrounding the 10th Avenue Marine Terminal. The limits of this security zone are more specifically defined as the area enclosed by the following points: starting on shore at 32°42'15" N 117°09'39" W, then extending southwesterly to 32°42'02" N 117°09'51" W, then southeasterly to 32°41'43" N 117°09'25" W, northeasterly to shore at 32°41'47" N 117°09'20" W and then along the shoreline to starting point.

The security zone will be enforced by Coast Guard patrol craft and San Diego Harbor Police as authorized by the Captain of the Port San Diego (COTP). See 33 CFR 6.04-11, Assistance of other agencies. Persons and vessels are prohibited from entering into or transiting through this security zone 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.

Due to National Security interests, the implementation of this security zone is necessary for the protection of the United States and its people. The size of the zone is the minimum necessary to provide adequate protection for the U.S. Naval vessels, their crews, adjoining areas and the public. Most of the entities likely to be affected are pleasure craft engaged in recreational activities and sightseeing. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting U.S. Naval vessels, their crews and the public.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on 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.

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in the portion of San Diego Bay south of Harbor Island from 7 a.m. on June 25, 2008, to 7 p.m. on June 28, 2008. However, these security zones will not have a significant economic impact on a substantial number of small entities because these zones are limited in scope and duration. In addition, the Coast Guard will issue broadcast notice to mariners (BNM) alerts via VHF-FM marine channel 16 before the security zone is enforced.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered 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 Chief Petty Officer Eric Carroll, Waterways Management, Sector San Diego at (619) 278-7268.

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 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 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone.

A final "Environmental Analysis Checklist" and a final "Categorical Exclusion Determination" are available in the docket 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195, 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Section 165.T11-063 is added to read as follows:

**Section 165.T11-063 Security Zone;
Waters Adjacent 10th Avenue Marine
Terminal, San Diego, CA**

(a) *Location.* The security zone consists of the navigable waters surrounding the 10th Avenue Marine Terminal. The limits of this security zone are more specifically defined as the area enclosed by the following points: Starting on shore at 32°42'15" N 117°09'39" W, then extending southwesterly to 32°42'02" N 117°09'51" W, then southeasterly to 32°41'43" N 117°09'25" W, northeasterly to shore at 32°41'47" N 117°09'20" W and then along the shoreline to starting point.

(b) *Effective period.* This section will be in effect from 7 a.m. on June 25, 2008, to 7 p.m. on June 28, 2008. If the need for the security zone ends before the scheduled termination time, the Captain of the Port San Diego will cease enforcement of this security zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into, transit through, or anchoring within the security zone described in paragraph (a) of this section by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. All other general regulations of § 165.33 of this part apply in the security zone established by this section.

(d) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Patrol personnel can be comprised of commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the San Diego Harbor Police.

Dated: June 18, 2008.

C.V. Strangfeld,

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

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**DEPARTMENT OF HOMELAND
SECURITY**

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-0146]

RIN 1625-AA00

**Temporary Safety Zone; Wreckage of
the M/V NEW CARISSA, Pacific Ocean
3 Nautical Miles North of the Entrance
to Coos Bay, OR**

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Pacific Ocean encompassed in the 1000 yard radius surrounding the wreckage of the M/V NEW CARISSA located 3 NM north of the entrance to Coos Bay, Oregon. The Captain of the Port Portland is taking this action to safeguard individuals and vessels involved in a salvage operation involving the M/V NEW CARISSA. Entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representative.

DATES: This regulation is effective from 10 a.m. June 5, 2008, to 11:59 p.m. August 31, 2008, unless canceled earlier through broadcast notice to mariners.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0146 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and Coast Guard Sector Portland, 6767 N. Basin Ave., Portland, OR 97217 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST1 Lucia Mack, Waterways Management, c/o Captain of the Port Portland, 6767 N. Basin Ave, Portland, OR 97217-3992, and (503) 240-9311.

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) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after

publication in the *Federal Register*. The Coast Guard was not given a start date for this operation and just recently became aware of its progress which did not allow for prior notice. Publishing a NPRM would be contrary to public interest since immediate action is necessary to allow for the safe salvage of the wreckage of the M/V NEW CARISSA which is aground upon a sand bar in the Pacific Ocean 3 NM north of the entrance to Coos Bay, Oregon. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the salvage operation. For this reason, following the normal rulemaking procedures in this case would be impracticable and contrary to the public safety.

Background and Purpose

The Coast Guard is establishing a temporary safety zone on the waters of the Pacific Ocean encompassed in the 1000 yard radius surrounding the wreckage of the M/V NEW CARISSA located 3 NM north of the entrance to Coos Bay, Oregon. Entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representative from 10 a.m. June 5, 2008, to 11:59 p.m. August 31, 2008, unless canceled earlier through broadcast notice to mariners.

The Captain of the Port Portland is taking this action to safeguard individuals and vessels involved in a salvage operation involving the wreck of the M/V NEW CARISSA. This safety zone will be enforced by representatives of the Captain of the Port Portland. The Captain of the Port may be assisted by other federal, state, and local agencies.

Discussion of Rule

This rule, for safety concerns, will control vessels, personnel, and individual movements on the waters of the Pacific Ocean encompassed in the 1000 yard radius surrounding the wreckage of the M/V NEW CARISSA located 3 NM north of the entrance to Coos Bay, Oregon as indicated in section 2 of this Temporary Final Rule. Entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representative. Coast Guard Personnel and local law enforcement will enforce this safety zone. The Captain of the Port may be assisted by other federal and local agencies.

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