

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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

### 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 proposed rule and concluded that, under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, 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 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 is amending 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 new § 165.T11-043 to read as follows:

#### § 165.T11-043 Safety Zone; San Diego Bay, CA.

(a) *Location.* The temporary safety zone includes the area extending 120 yards around a point at 32° 41'08"N, 117° 08'51"W. All coordinates are North American Datum 1983.

(b) *Effective period.* This section will be enforced from 8:45 p.m. (PST) to 9:45 p.m. (PST) on January 24, 2003. If the event concludes 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 safety zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander. The Patrol Commander may be contacted via VHF-FM Channel 16.

Dated: January 15, 2003.

#### S.P. Metruck,

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

[FR Doc. 03-1597 Filed 1-23-03; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP San Diego 03-002]

RIN 2115-AA97

#### Security Zone; Waters Adjacent to Embarcadero Park and Campbell Shipyard, San Diego, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone in the waters adjacent to Embarcadero Park and Campbell Shipyard, San Diego Bay, San Diego, CA. This temporary security zone is necessary to ensure the safety of the participants, spectators and users of the waterway during the National Football League Super Bowl XXXVII NFL Experience event. Persons and vessels are prohibited from entering into, transiting through, or anchoring within the security zone unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from 8 a.m. (PDT) on January 18, 2003 to 2 a.m. (PDT) January 27, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket COTP San Diego 03-002 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, CA, 2716 N. Harbor Drive, San Diego, CA 92101, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer First Class Jeff Brown, 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 regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the complex planning for this event many details were not finalized in time to publish a notice of proposed rulemaking. Publishing a NPRM and delaying the effective date would be contrary to the public interest since the event would occur before the rulemaking process was complete.

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**. In addition to the reasons

stated above, it would be contrary to the public interest since action is needed to ensure the protection of the public and commercial structures and individuals near or in this structure during the National Football League Super Bowl XXXVII NFL Experience event.

### Background and Purpose

Due to the high profile of the Super Bowl, this action is necessary to ensure public safety and prevent sabotage or terrorist acts against the public and commercial structures and individuals near or in this structure during the NFL Experience event to be held at Embarcadero Park and Campbell Shipyard.

The security zone consists of the navigable waters surrounding Embarcadero Park and Campbell Shipyard. The security zone follows along the northern portion of the designated channel in this area as to not impact traffic in the channel. The exact coordinates can be found in the regulatory text.

The zone will be in effect from 8 a.m. (PDT) on January 18, 2003 to 2 a.m. (PDT) January 27, 2003.

Coast Guard and San Diego Harbor Police will patrol and enforce the security zone. See 33 CFR 6.04–11, Assistance of other agencies.

Persons and vessels wishing to enter into or transit through this security zone are required to receive authorization 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 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).

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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.

The Super Bowl committee has leased out the entire area affected by this Security zone with the exception to the Marriott Marina. The owners and operators of this marina will not be prohibited from transiting in and out of the marina at their leisure. All vessels will be authorized to transit through the zone after receiving permission from the Captain of the Port or his designated representative. Any vessel transiting through this zone is required to transit at a speed of not greater than 5 knots, excluding Coast Guard and Harbor Police vessels patrolling the security zone. Before the effective period, Marine Safety Office San Diego will issue maritime advisories to users of San Diego Bay.

### 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 or if you have questions concerning its provisions or options for compliance, please contact Petty Officer First Class Jeff Brown, U.S. Coast Guard 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 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

### 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

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, 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.

#### 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 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.

2. Add new temporary § 165.T11-040 is added to read as follows:

#### § 165.T11-040 Security Zone, Waters adjacent to Embarcadero Park and Campbell Shipyard, San Diego, CA.

(a) *Location.* The security zone consists of the navigable waters surrounding Embarcadero Park and Campbell Shipyard. The security zone follows along the northern portion of the designated channel in this area as to not impact traffic in the channel. The limits of the security zone are more specifically defined as the area enclosed by the following points: starting on shore at 32° 42'30" N, 117° 10'12" W; then extending southwest to 32° 42'34" N, 117° 10'22" W; thence southerly to 32° 42'04" N, 117° 10'08" W; then southeasterly to 32° 42'09" N, 117° 09'52" W; then south to 32° 42'04" N, 117° 09'44" W, then easterly to a point on shore at 32° 42'08" N, 117° 09'31" W. All coordinates are North American Datum 1983.

(b) *Effective period.* The zone will be in effect from 8 a.m. (PDT) on January 18, 2003 to 2 a.m. (PDT) January 27, 2003. If the need for the security zone ends before the scheduled termination time, the Captain of the Port 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 by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. The San Diego Harbor Police may assist the Coast Guard in the patrol and enforcement of this security zone. Vessels requesting transit through the security zone will need to contact the Coast Guard patrol boat in the area via VHF-FM channel 16 prior to entering the zone. Upon authorization to enter the security zone, any vessel transiting through this zone is required to transit at a speed of not greater than 5 knots. All Coast Guard and Harbor Police vessels patrolling and enforcing the security zone are exempt from the 5 knot speed limit. All other general regulations of § 165.33 of this part apply in the security zone established by this temporary regulation.

Dated: January 15, 2003.

S.P. Metruck,

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

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#### DEPARTMENT OF TRANSPORTATION

#### Coast Guard

#### 33 CFR Part 165

[COTP San Diego 03-004]

RIN 2115-AA97

#### Security Zone: Waters Adjacent to National City Marine Terminal, San Diego, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone in the waters adjacent to the National City Marine Terminal, San Diego Bay, San Diego, CA. This action is needed to protect the U.S. Naval vessel(s) and their crew(s) during a military outload evolution at the National City Marine Terminal 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 (COTP) San Diego, or his designated representative.

**DATES:** This rule is effective from 12 p.m. (noon) (PDT) on January 17, 2003 to 12 p.m. (noon) (PDT) on March 17, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP San Diego 03-004], and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, 2716 N. Harbor Dr. San Diego CA, 92101, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

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

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

This action is needed to protect the U.S. Naval vessel(s) and their crew(s) during a military outload evolution at the National City Marine Terminal from sabotage, or other subversive acts, accidents, criminal actions or other causes of a similar nature. This temporary security zone is necessary for protection of operations during a military outload in support of Operation Enduring Freedom in the area and for the protection of the operations from compromise and interference.

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 because it is not required in this instance. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the protection of the vessel and their crews during a military outload as well as for the public and national security.

In keeping with the requirements of 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**.

Due to complex planning, national security reasons, and coordination with all military schedules, information regarding the precise location and date of the event necessitating promulgation of this security zone and other logistical details surrounding the event were not provided until a date fewer than 30 days prior to the event. Due to the sensitive nature of the operations involved, it was