

**DATES:** This regulation becomes effective on February 25, 1998 at 1:00 p.m. ADT and terminates on March 31, 1998 at 11:59 p.m. ADT.

**FOR FURTHER INFORMATION CONTACT:** LCDR Rick Rodriguez, Chief of Port Operations, Coast Guard Captain of the Port Western Alaska, Anchorage, 510 L Street, Suite 100; Anchorage, Alaska 99501; (907) 271-6700.

**SUPPLEMENTARY INFORMATION:**

**Background and Purpose**

The purpose of this safety zone is to allow the salvage barge to conduct salvage operations unencumbered by vessels at or proceeding to anchor within the zone defined later in this rule.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to prevent disruption of the safe salvage operation of the M/V KUROSHIMA.

**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. 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). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

**Collection of Information**

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

**Federalism**

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Environment**

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2

of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation.

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

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

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; and 49 CFR 1.46.

2. A new temporary § 165.T17-002 is added to read as follows:

**§ 165.T17-002 Summer Bay Safety Zone.**

(a) *Location.* The following area is a Safety Zone: the body of water enclosed by the following coordinates: from Second Priest Rock (N53-54.18, W166-28.0) north to N53-55.0, W166-28.0 east to N53-55.0, W166-26.6 south to the southwest bluff bordering Morris Cove (N53-54.70, W166-26.6).

(b) *Effective dates.* This section becomes effective on February 25, 1998 at 1:00 p.m. ADT and terminates on March 31, 1998 at 11:59 p.m. ADT unless otherwise cancelled by the Captain of the Port Western Alaska.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port or his on scene representative, the supervisor of Marine Safety Detachment Unalaska.

Dated: February 24, 1998.

**E. P. Thompson,**

*Captain, U.S. Coast Guard, Captain of the Port Western Alaska.*

[FR Doc. 98-7912 Filed 3-25-98; 8:45 am]

**BILLING CODE 4910-15-M**

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

[COTP San Diego; 98-007]

RIN 2115-AA97

**Safety Zone; San Diego Bay and Adjacent Waters, San Diego, CA**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** In conjunction with the release of 'JJ' the gray whale by Sea World of California, the Coast Guard is establishing a temporary, moving safety

zone around the USCGC CONIFER from 1:00 p.m. (PST) on March 23, 1998 until 6:00 p.m. (PST) on March 30, 1998. The safety zone will encompass all navigable waters within 250 yards of the USCGC CONIFER while it transits from Naval Station 32nd Street to lighted buoys 5 and 6. The safety zone will expand to 500 yards at lighted buoys 5 and 6, and the safety zone will remain at 500 yards while the USCGC CONIFER transits any/all navigable waters located within the territorial sea of the United States.

This temporary regulation is established to serve three purposes: to protect and facilitate the continued development of the gray whale being released by Sea World of California on behalf of the National Marine Fisheries Service (NMFS) (pursuant to a grant of authority signed by NMFS on November 17, 1995, authorizing Sea World of California to rescue and rehabilitate marine mammals as a member of the California Mammal Stranding Network) to ensure the safety of the vessels and personnel involved in the release, including the USCGC CONIFER and its crew; and, to ensure the safety of any spectator vessels and persons. Entry into, transit through, or anchoring within this moving safety zone is prohibited unless authorized by the Captain of the Port.

In order to ensure maximum safety and environmental protection, to the extent that the USCGC CONIFER navigates to any point located beyond 3 nautical miles from the baseline from which the territorial sea is measured to release 'JJ' the gray whale during the dates and times that this temporary safety zone is in effect, the Coast Guard is also establishing a temporary, nonobligatory moving exclusionary area encompassing all waters within 500 yards of the USCGC CONIFER. Entry into this nonobligatory exclusionary area by any mariner constitutes a risk to navigational safety and a risk to the marine mammal being released, and it may prevent the release of 'JJ' the gray whale. It may also constitute a factor to be considered in determining whether a person has operated a vessel in a negligent manner in violation of 46 USC § 2302, or has engaged in activities in violation of the MMPA and its implementing regulations.

**EFFECTIVE DATES:** This regulation becomes effective at 1:00 p.m. (PST) on March 23, 1998, and continues until 6:00 p.m. (PST) on March 30, 1998.

**ADDRESSES:** Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego, CA 92101-1064.

**FOR FURTHER INFORMATION CONTACT:** LT Mike Arguelles, U.S. Coast Guard

Marine Safety Office San Diego at (619) 683-6484.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this temporary regulation and good cause exists for making it effective prior to, or in less than 30 days after, **Federal Register** publication. Publication of a notice of proposed rulemaking and delay of its effective date would be contrary to public interest because the precise location of the release of 'JJ' the gray whale, and other logistical details surrounding the release, were not finalized until a date fewer than 30 days prior to the scheduled release dates.

**Background and Purpose**

The release of 'JJ' the gray whale requiring promulgation of this temporary, moving safety zone is scheduled to take place in the navigable waters of San Diego Bay at a point approximately located 3 miles off Point Loma, sometime between March 23-28, 1998; however, the actual release of 'JJ' the gray whale may occur at a point located somewhere further off the coast of Point Loma. The precise release date, time, and location are dependent upon variable northbound marine mammal migratory patterns in the Pacific Ocean.

*Territorial sea*, as defined in 33 CFR 2.05-5, means all waters within the belt, 3 nautical miles wide, that is adjacent to the coast of the United States and seaward of the territorial sea baseline. The "territorial sea baseline" is defined in 33 CFR 2.05-10. To the extent that the USCGC CONIFER navigates to any point located beyond 3 nautical miles off the coast of Point Loma to release 'JJ' the gray whale during the dates and times that this temporary safety zone is in effect, the Coast Guard is also establishing a temporary, nonobligatory moving exclusionary area encompassing all waters within 500 yards of the USCGC CONIFER. Entry into this nonobligatory exclusionary area by any mariner may pose such a danger to the safety of all parties involved that it might prevent the release of 'JJ' the gray whale; it may also constitute a factor to be considered in determining whether a person has operated a vessel in a negligent manner in violation of 46 U.S.C. 2302, or has engaged in activities in violation of the MMPA and its implementing regulations.

**Discussion of Regulation**

Gray whales are a protected species under the Marine Mammal Protection Act (16 U.S.C. 1362(6); 50 CFR 216.3),

and all federal agencies are required to cooperate with the Commerce Department in carrying out the purposes of the Marine Mammal Protection Act (16 U.S.C. 1382(b)). Sea World is releasing 'JJ' the gray whale on behalf of NMFS, pursuant to a grant of authority signed by NMFS on November 17, 1995, authorizing Sea World of California to rescue and rehabilitate marine mammals as a member of the California Mammal Stranding Network. This temporary regulation is established to serve three purposes: (1) To protect and facilitate the continued development of the gray whale being released by Sea World of California on behalf of NMFS (pursuant to a grant of authority signed by NMFS on November 17, 1995, authorizing Sea World of California to rescue and rehabilitate marine mammals as a member of the California Mammal Stranding Network), (2) to ensure the safety of the vessels and personnel involved in the release, including the USCGC CONIFER and its crew; and (3) to ensure the safety of any spectator vessels and persons. Entry into, transit through, or anchoring within this moving safety zone is prohibited unless authorized by the Captain of the Port.

**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. It has been exempted from review 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 (44 FR 11040; February 26, 1979). Due to the short duration and limited scope of the safety zone the Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of Department of Transportation is unnecessary.

**Collection of Information**

This rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

**Federalism**

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612, and has determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Environmental Assessment**

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2. of Commandant Instruction M16475.1B, it will have no significant environmental impact, including no adverse effect on species or habitats protected by the Endangered Species Act, and it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist will be available for inspection and copying in the docket to be maintained at the address listed in **ADDRESSES**.

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

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

**Regulation**

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for 33 CFR 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. A new § 165.T11-047 is added to read as follows:

**§ 165.T11-049 Moving Safety Zone: San Diego Bay and Adjacent Waters, San Diego, CA.**

(a) *Location.* The safety zone will encompass all navigable waters within 250 yards of the USCGC CONIFER while it transits from Naval Station 32nd Street to lighted buoys 5 and 6. The safety zone will expand to 500 yards at lighted buoys 5 and 6, and the safety zone will remain at 500 yards while the USCGC CONIFER transits any/all navigable waters located within the territorial sea of the United States. "Territorial sea," as defined in 33 CFR 2.05-5, means all waters within the belt, 3 nautical miles wide, that is adjacent to the coast of the United States and seaward of the territorial sea baseline. The "territorial sea baseline" is defined in 33 CFR 2.05-10.

**Note:** *Nonobligatory Exclusionary Area.* In order to ensure maximum safety and environmental protection, to the extent that the USCGC CONIFER navigates to any point located beyond 3 nautical miles from the baseline from which the territorial sea is measured to release "JJ" the gray whale during the dates and times that this temporary safety zone is in effect, the Coast Guard is also establishing a temporary, nonobligatory moving exclusionary area

encompassing all waters within 500 yards of the USCGC CONIFER. Entry into this nonobligatory exclusionary area by any mariner constitutes a risk to navigational safety and a risk to the marine mammal being released, and it may prevent the release of "JJ" the gray whale. It may also constitute a factor to be considered in determining whether a person has operated a vessel in a negligent manner in violation of 46 USC § 2302, or has engaged in activities in violation of the MMPA and its implementing regulations.

(b) *Effective Dates.* This regulation becomes effective at 1:00 p.m. (PST) on March 23, 1998, and continues until 6:00 p.m. (PST) on March 30, 1998, unless canceled earlier by the Captain of the Port.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port.

Dated: March 16, 1998.

**J.A. Watson,**

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

[FR Doc. 98-7911 Filed 3-25-98; 8:45 am]

BILLING CODE 4910-15-M

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[OH107a; KY101-9809a; FRL-5985-9]

### Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Ohio; Kentucky

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is extending the attainment date for the Cincinnati-Hamilton interstate moderate ozone nonattainment area from November 15, 1997 to November 15, 1998. This extension is based in part on monitored air quality readings for the national ambient air quality standard (NAAQS) for ozone during 1997. Accordingly, EPA is revising the table in the Code of Federal Regulations concerning ozone attainment dates in this area. In this action, EPA is approving the States' request through "direct final" rulemaking; the rationale for this approval is set forth below. Elsewhere in this **Federal Register**, EPA is proposing approval and soliciting comment on this action; should EPA receive such comment, it will publish an action informing the public that this

rule did not take effect; otherwise no further rulemaking will occur on this SIP revision request.

**DATES:** This final rule is effective May 26, 1998 unless substantive written adverse comments not previously addressed by the State or EPA are received by April 27, 1998. If the effective date is delayed, timely notification will be published in the **Federal Register**.

**ADDRESSES:** Written comments may be mailed to Joseph M. LeVasseur at the EPA Region 4 address listed below or to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), Region 5 at the address listed below. Copies of the material submitted by the Kentucky Natural Resources and Environmental Protection Cabinet (KNREPC) may be examined during normal business hours at the following locations: Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, 61 Forsyth Street, Atlanta, Georgia 30303-3104.

Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

Copies of the materials submitted by the Ohio Environmental Protection Agency (OEPA) may be examined during normal business hours at the following locations:

Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

OEPA, Division of Air Pollution Control, 1800 Watermark Drive, Columbus, OH 43215.

**FOR FURTHER INFORMATION CONTACT:** Joseph M. LeVasseur at the EPA Region 4 address listed above or Randolph O. Cano at the Region 5 address listed above. (It is recommended that you contact Joseph M. LeVasseur at (404) 562-9035 before visiting the Region 4 office.) (It is recommended that you contact Randolph O. Cano at (312) 886-6036 before visiting the Region 5 office.)

**SUPPLEMENTARY INFORMATION:**

### Request for Attainment Date Extension for the Cincinnati-Hamilton Metropolitan Moderate Ozone Nonattainment Area

On November 14, 1997, OEPA requested a one-year attainment date extension for the Ohio portion of the Cincinnati-Hamilton moderate ozone nonattainment area which consists of Hamilton, Butler, Clermont and Warren Counties in Ohio. Similarly on January 7, 1998 KNREPC requested a one-year attainment date extension for the

Kentucky portion of the Cincinnati-Hamilton moderate ozone nonattainment area which consists of Kenton, Boone and Campbell Counties. Since this area was classified as a moderate ozone nonattainment area, the statutory ozone attainment date, as prescribed by section 181(a) of the Clean Air Act (CAA), was November 15, 1996. On November 17, 1997 (62 FR 61241, and see 63 FR 6664) EPA extended the attainment date to November 15, 1997. The submittals request that the attainment date be extended to November 15, 1998.

### CAA Requirements and EPA Actions Concerning Designation and Classification

Section 107(d)(4) of the CAA requires the States and EPA to designate areas as attainment, nonattainment, or unclassifiable for ozone as well as other pollutants for which national ambient air quality standards (NAAQS) have been set. Section 181(a)(1) requires that ozone nonattainment areas be classified as marginal, moderate, serious, severe, or extreme, depending on their air quality. In a series of **Federal Register** documents, EPA completed this process by designating and classifying all areas of the country for ozone. See, e.g., 56 FR 58694 (Nov. 6, 1991); 57 FR 56762 (Nov. 30, 1992); 59 FR 18967 (April 21, 1994).

Areas designated nonattainment for ozone are required to meet attainment dates specified under the CAA. The Cincinnati-Hamilton ozone nonattainment area was designated nonattainment and classified moderate for ozone pursuant to 56 FR 58694 (Nov. 6, 1991). By this classification, its attainment date became November 15, 1996. A discussion of the attainment dates is found in 57 FR 13498 (April 16, 1992) (the General Preamble).

### CAA Requirements and EPA Actions Concerning Meeting the Attainment Date

Section 181(b)(2)(A) requires the Administrator, within six months of the attainment date, to determine whether ozone nonattainment areas attained the NAAQS. For ozone, EPA determines attainment status on the basis of the average number of expected exceedances of the NAAQS over the most recent three-year period. See General Preamble, 57 FR 13506. In the case of moderate ozone nonattainment areas, the three-year period is 1994-1996. CAA section 181(b)(2)(A) further states that, for areas classified as marginal, moderate, or serious, if the Administrator determines that the area did not attain the standard by its