

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Section 100.526 is added to read as follows:

§ 100.526 Fireworks Displays, Patapsco River, Baltimore, Maryland.

(a) *Definitions*—(1) *Inner Harbor Regulated Area*. The Inner Harbor Regulated Area is defined as the waters of the Patapsco River enclosed within the arc of a circle with a radius of 400 feet and with its center located at latitude 39°16.9' N, longitude 076°36.3' W. All coordinates reference Datum NAD 1983.

(2) *Northwest Harbor Regulated Area*. The Northwest Harbor Regulated Area is defined as the waters of the Patapsco River enclosed within the arc of a circle with a radius of 500 feet and with its center located at latitude 39°16.6' N, longitude 076°35.8' W. All coordinates reference Datum NAD 1983.

(3) *Coast Guard Patrol Commander*. The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(4) *Official Patrol*. The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Activities Baltimore with a commissioned, warrant, or petty officer of the Coast Guard on board and displaying a Coast Guard ensign.

(b) *Special Local Regulations*. (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the Inner Harbor Regulated Area or the Northwest Harbor Regulated Area.

(2) The operator of any vessel in these areas shall:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(c) *Effective Dates*: This section is effective:

(1) Annually from 8:30 p.m. on July 4 until 9:30 p.m. on July 4; and

(2) Annually from 11:45 p.m. on December 31 until 12:45 a.m. on January 1.

(d) *Rain Dates*: If the July 4 fireworks display is cancelled for the evening due to inclement weather, then this section is effective between 8:30 p.m. and 9:30 p.m. on July 5. If the December 31 fireworks display is cancelled for the evening due to inclement weather, then this section is effective from 11:45 p.m. on January 1 until 12:45 a.m. on January 2. Notice of the effective period will be given via Marine Safety Radio Broadcast on VHF-FM marine band radio, Channel 22 (157.1 MHz).

Dated: 23 May 2001.

J.E. Shkor,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

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

[CGD11-01-008]

RIN 2115-AA97

Security Zone; Naval Supply Center Pier, San Diego Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to create a permanent security zone around the Naval Supply Center Pier at Naval Base, San Diego, at the request of the U.S. Navy. The establishment of this security zone is needed to ensure the physical protection of naval vessels moored at the Naval Supply Center Pier.

DATES: Comments must be received on or before August 13, 2001.

ADDRESSES: Comments may be mailed to LTJG Erin Calvert, U.S. Coast Guard Marine Safety Office, 2716 North Harbor Drive, San Diego, CA, 92101-1064, (619) 683-6477. The Marine Safety Office maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection and copying at the Marine Safety Office between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Patricia Springer, Vessel Traffic Management Section, 11th Coast Guard District, telephone (510) 437-2951; e-mail pspringer@d11.uscg.mil.

SUPPLEMENTARY INFORMATION:

Request for Comments

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or any other materials to the address listed under **ADDRESSES**. Persons submitting comments should include their names and addresses, identify the docket number for this rulemaking, the specific section of the proposal to which their comments apply, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If this is not practical, a second copy of any bound materials is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period and may change this proposal in view of the comments.

No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid in the rulemaking process. Persons may request a public hearing by writing to the address listed above in **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Coast Guard proposes to create a permanent security zone around the Naval Supply Center Pier at Naval Base, San Diego. The security zone consists of the waters of San Diego Bay extending approximately 100 feet out from the north, west, and south sides of the Naval Supply Center Pier.

Currently, there is a restricted area around the Naval Supply Center Pier, 33 CFR 334.870(d). The Navy believes that this restricted area, by itself, is insufficient to adequately safeguard its vessels. The Navy has been reviewing all aspects of its anti-terrorism and force protection posture in response to the attack on the USS COLE. The creation of this security zone will safeguard vessels moored at the Naval Supply Center Pier and waterside facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. The creation of this security zone will also prevent recreational and commercial craft from interfering with

military operations involving naval vessels and it will protect transiting recreational and commercial vessels, and their respective crews, from the navigational hazards posed by such military operations. Unlike the current restricted area, under this proposed rule entry into, transit through, or anchoring within this security zone would be prohibited unless authorized by the Captain of the Port, the Commander, Naval Base San Diego, or the Commanding Officer, Naval Station, San Diego.

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 regulation 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). 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 DOT is unnecessary. This proposal will have minimal additional impact on vessel traffic because it is only a slight modification and expansion of the existing security zone codified at 33 CFR 165.1105.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this proposal would have significant 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 proposed rule would not have a significant economic impact on a substantial number of small entities because vessel traffic would be allowed to pass through the zone with the permission of the Captain of the Port.

Collection of Information

This proposed regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this proposed regulation under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630m Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets the 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 proposed 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C, it will have no significant environmental impact 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.

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.

List of Subjects in 33 CFR Part 165

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

Proposed Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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 § 165.1121 is added to read as follows:

§ 165.1121 Security Zone: San Diego, CA.

(a) Location. The following area is a security zone: the waters of San Diego Bay extending approximately 100 feet from the north, west, and south sides of the Naval Supply Center Pier enclosed by lines connecting the following points: Beginning at 32°42'50" N, 117°10'25" W (Point A); to 32°42'50" N, 117°10'38" W (Point B); to 32°42'54" N, 117°10'38" W (Point C); to 32°42'54" N, 117°10'25" W (Point D).

(b) 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 or the Commanding Officer, Naval Base, San Diego. Section 165.33 also contains other general requirements.

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

Dated: May 22, 2001.

E.R. Riutta,

Vice Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

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