

## Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides 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. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**.

## Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will 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.

## 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;

Department of Homeland Security Delegation No. 0170.

■ 2. Add temporary § 165.T07-069 to read as follows:

#### § 165.T07-069 Regulated Navigation Area; Port Everglades Harbor, Fort Lauderdale, Florida.

(a) *Location.* The following area in the vicinity of Port Everglades Harbor is a regulated navigation area: all waters of the Atlantic Intracoastal Waterway and Port Everglades Harbor, from shore to shore, south of the 17th Street Bridge (at a line connecting 26° 06.04'N, 080°07.17'W and 26°06.04'N, 080°07.05'W), north of the intersection of the Dania Cut Off Canal and the Intracoastal Waterway (latitude 26° 04.72'N) and west of a north-south line connecting red day board #6 and green day board #7 at the entrance to Port Everglades Harbor (longitude 080° 06.30'W).

(b) *Regulations.* Vessels entering and transiting through the regulated navigation area shall proceed at a slow speed. Nothing in this section alleviates vessels or operators from complying with all state and local laws in the area, including manatee slow speed zones.

(c) *Definition.* As used in this section, *slow speed* means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to slow speed. A vessel is not proceeding at slow speed if it is:

- (1) On a plane;
- (2) In the process of coming up on or coming off of plane; or
- (3) Creating an excessive wake.

(d) *Effective period.* This rule is effective from 12:01 a.m. on Monday, April 28, 2003, until 12:01 a.m. on Monday, September 1, 2003.

Dated: April 25, 2003.

**James S. Carmichael,**

*Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.*

[FR Doc. 03-11811 Filed 5-12-03; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 03-004]

RIN 1625-AA00

#### Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the navigable waters of the Mission Creek Waterway in China Basin surrounding the construction site of the Fourth Street Bridge, San Francisco, California. This temporary safety zone is necessary to protect persons and vessels from hazards associated with bridge construction activities. The safety zone will temporarily prohibit usage of the Mission Creek Waterway surrounding the Fourth Street Bridge; specifically, no persons or vessels will be permitted to come within 100 yards of either side of the bridge or pass beneath the bridge during construction, unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from 1 a.m. (PDT) on May 1, 2003, to 1 a.m. (PDT) on September 1, 2004.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of the docket [COTP San Francisco Bay 03-004] and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Diana J. Cranston, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437-3073.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

On March 19, 2003, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, California in the **Federal Register** (68 FR 13244). The effective date for the safety zone for the first phase of this project was published as commencing on April 15, 2003, and lasting for 6 weeks. Due to a project delay, the safety zone for the first phase of this project will now commence on May 1, 2003, lasting for an 8-week period. The second

phase of this project remains as previously published, commencing April 1, 2004, lasting for a 5-month period. Both periods will be enforced 24 hours a day. We received one letter commenting on the rule which will be discussed further in the section of Discussion of Comments and Changes. No public hearing was requested, and none was held. 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**. Details regarding this project were not finalized in time to allow for this rule to be published a full 30 days prior to making this rule effective. The rulemaking process began in March 2003 which allowed enough time to publish an NPRM and allow for a public comment period. Accordingly, since timely rehabilitation to the bridge (as discussed in the Background and Purpose section) is crucial to the safety of this bridge, the channel closures must begin on May 1, 2003, less than 30 days after the publication of this rule.

#### **Background and Purpose**

The San Francisco Department of Public Works requested a waterway closure on Mission Creek for the purpose of performing significant work to the Fourth Street Bridge. The Fourth Street Bridge was erected across the Mission Creek Waterway at the China Basin in 1917, and was determined eligible for listing in the National Register of Historic Places in 1985 as part of the California Department of Transportation (Caltrans) Historic Bridge Inventory. Caltrans, Division of Structures, evaluated the Fourth Street Bridge and recommended that the bridge be brought up to current seismic safety standards. In view of extensive corrosion to the steel components and concrete approaches of the bridge, Caltrans has also placed traffic load limitations over this bridge. Three primary objectives are to be met in rehabilitating the Fourth Street Bridge: (i) Seismically retrofit the structure while not significantly altering the historical appearance of the bridge; (ii) Repair the damage to the concrete approaches and several steel and concrete members of the movable span, and (iii) Reinitiate light rail service across the bridge.

The first phase of this project will entail the removal of the lift span, which will take approximately 8 weeks, scheduled to begin May 1, 2003. During this period, the channel will be closed at the Fourth Street Bridge to boating traffic. The second phase of this project will entail the construction of the north

and south approaches, the new counterweight and its enclosing pit; but for the most part, boating traffic will not be affected during this phase. The last phase of this project will entail the replacement of the lift span and aligning the bridge to accept the light rail track system, which will take approximately five months, scheduled to begin April 1, 2004. During this period, the channel will be closed at the Fourth Street Bridge to boating traffic.

The Fourth Street Bridge Project is funded by Federal Highway Administration and State of California. The state funding restricts the construction to a start date before August 2003 and completion by September 2005. Any delays or deferrals in construction will impact the secured funding for the project.

There are two major environmental issues that restricts the construction in the channel, namely the annual Pacific hearing-spawning season that runs from December 1st to March 31st and noise constraint in the water for steelhead from December 1st to June 1st. Any demolition, pile driving and excavation in the water during those time periods will be monitored and restricted for possible impact on the fish.

The Fourth Street Bridge Project is part of the larger Third Street Light Rail Project and many public presentations on the project's components, channel closure schedules, impacts to surrounding uses and project duration have been made by the City and Port of San Francisco. The Third Street Light Rail Advisory Group was created as a forum to keep the public informed on the progress being made on the Third Street Light rail project. Also, this project has been presented at several Mission Bay Citizen Advisory Committee meetings. At these meetings, the public was notified of the project components, impacts and the need to temporarily close the waterway. Specific to the Fourth Street Bridge project, an Environmental Assessment, required by the Federal Highway Administration and Caltrans, (under the National Environmental Protection Act) was conducted by the City of San Francisco. A public hearing regarding the Environmental Assessment was held on January 17, 2002 at San Francisco Arts College, Timken Lecture Hall, 1111 8th Street in San Francisco California, and was well attended.

In January 2003, the City of San Francisco advised the Coast Guard Captain of the Port that two channel closures would be necessary in order to accomplish the Fourth Street Bridge project. The Coast Guard met with various City and Port officials to ensure

that there would be minimal impacts on involved and potentially involved entities.

This temporary safety zone in the navigable waters of Mission Creek surrounding the construction site of the Fourth Street Bridge will be enforced during the course of an 8-week period, starting May 1, 2003 and again for a 5-month period, starting April 1, 2004.

#### **Discussion of Comments and Changes**

We received one letter commenting on this rule. The Mission Creek Harbor Association, an organization of boaters that have both permanent and temporary moorings at Mission Creek Harbor, are in favor of the first closure as it is relatively short in duration and all affected boaters have been provided alternate moorings outside of the affected closure area by the city. The association is concerned about the second closure that will commence on April 1, 2004 and last for 5 months. This closure is much longer than the first closure and will last the full duration of the boating season in 2004. The Mission Creek Harbor Association and city officials have resolved their issue for the first closure and they are currently working on resolving this issue for the closure in 2004. The Mission Creek Harbor Association is pleased with this form of resolution and understands that no changes will be made to this rule as a result of their comments.

As discussed before, a minor change to the effective date for the safety zone has changed since the NPRM was published on March 19, 2003, entitled "Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, CA" in the **Federal Register** (68 FR 13244). The first phase of this project was published as commencing on April 15, 2003, and lasting for 6 weeks. Due to a project delay, the safety zone for a first phase of this project will now commence on May 1, 2003, lasting for an 8-week period. The second phase of this project remains as previously published, commencing April 1, 2004, lasting for a 5-month period.

#### **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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

Although this safety zone does restrict boating traffic past the fourth street bridge, the effect of this regulation will not be significant as this waterway is very small with limited boating traffic.

#### 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. For the same reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule is not expected to have a significant economic impact on any substantial number of entities, regardless of their size.

This safety zone will not have a significant impact on a substantial number of small entities for the following reasons. Although the channel closure will restrict water access to a small number of boats, including houseboats who have moorings in Mission Creek Harbor, the channel closure will not impact land access to these houseboats during the bridge closures. The City of San Francisco, Department of Public Works and the Port of San Francisco have been in close consultation with the Mission Creek Harbor Association to assist boat owners affected by this project. As a result, the Mission Creek Harbor Association has a lease agreement with the Port of San Francisco for both houseboats and pleasure boats to moor outside of the affected closure area for the duration of the first channel closure that commences on May 1, 2003. Similar resolutions are being discussed for the second closure that is scheduled to commence on April 1, 2004.

#### Assistance For Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer 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 the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 contains no collection of information requirements 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 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 analyzed this rule under Commandant Instruction M16475.ID, which guides 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 safety zone.

A final “Environmental Analysis Check List” 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), Reports and record keeping requirements, Security measures, Waterways.

■ 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 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; Department of Homeland Security Delegation No. 0170.

■ 2. From 1 a.m. (PDT) on May 1, 2003, to 1 a.m. (PDT) on September 1, 2004 add a new temporary § 165.T11–079 to read as follows:

**§ 165.T11–079 Safety Zone; Mission Creek Waterway, China Basin, San Francisco Bay, California.**

(a) *Location.* One hundred yards to either side of the Fourth Street Bridge, encompassing the navigable waters, from the surface to the bottom, within two lines; one line drawn from a point on the north shore of Mission Creek [37°46'29" N, 122°23'36" W] extending southeast to a point on the opposite shore [37°46'28" N, 122°23'34" W], and the other line drawn from a point on the north shore of Mission Creek [37°46'34" N, 122°23'30" W] extending southeast to a point on the opposite shore [37°46'33" N, 122°23'28" W]. [Datum: NAD 83].

(b) *Dates.* (1) This section is effective from 1 a.m. (PDT) on May 1, 2003, to 1 a.m. (PDT) on September 1, 2004.

(2) The zone in paragraph (a) of this section will be enforced from 1 a.m. (PDT) on May 1, 2003, to 1 a.m. (PDT) on June 28, 2003, and from 1 a.m. (PST) on April 1, 2004 to 1 a.m. (PDT) on September 1, 2004.

(3) If the need for enforcement of the safety zone ends, the Captain of the Port may cease enforcement of the safety zone and 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 zone by all vessels is prohibited, unless authorized by the Captain of the Port, or a designated representative thereof.

(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 comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, 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.

Dated: April 25, 2003.

**Gerald M. Swanson,**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.*

[FR Doc. 03–11809 Filed 5–12–03; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 2**

**RIN 2900–AL61**

**Delegations of Authority; Office of Regulation Policy and Management (ORPM)**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document sets forth a delegation of authority to the Assistant to the Secretary for Regulation Policy and Management to manage and coordinate the Department of Veterans Affairs' (VA) rulemaking process. The delegation is necessary to transfer certain rulemaking responsibilities to the newly-formed Office of Regulation Policy and Management in the Office of the Secretary. The delegation of authority is intended to improve the organization, clarity, and timeliness of VA regulations through centralized management and control. This document also makes minor technical amendments to a current delegation of authority that concerns the provision of relief on account of administrative error.

**DATES:** *Effective Date:* May 13, 2003.

**FOR FURTHER INFORMATION CONTACT:** Robert C. McFetridge, Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, 20420 telephone (202) 273–9215.

**SUPPLEMENTARY INFORMATION:** The Secretary of Veterans Affairs has established an Office of Regulation Policy and Management (ORPM) to provide centralized management and coordination of the Department of Veterans Affairs' (VA) rulemaking process. The office is led by an Assistant to the Secretary for Regulation Policy and Management (ASRPM), who is responsible for improving existing VA regulations and establishing procedures to ensure future regulations can be more easily read, understood, and applied. The delegation of authority contained in this final rule will permit the ASRPM to manage and coordinate the VA's rulemaking process.

The ASRPM is performing two major functions for the Department. First, he is leading the VA's Regulation Rewrite

Project. The Regulation Rewrite Project (the Project) is a comprehensive effort to improve the clarity and consistency of existing VA regulations. Currently, the Project is reviewing, reorganizing, and redrafting over 275 regulations in 38 CFR Part 3. These Compensation and Pension regulations are among the most difficult VA regulations for readers to understand and apply. Approximately 15 VA employees, temporarily detailed to the Project from the Office of General Counsel; Veterans Benefits Administration, Compensation and Pension Service; and Board of Veterans Appeals, are working in rotating teams seeking to complete this assignment over a 2-year period. The Secretary created the Project to respond to the Secretary's VA Claims Processing Task Force (Task Force) recommendation that Compensation and Pension regulations needed to be rewritten and reorganized in order to improve the VA's claims process. The Task Force found that "the problems identified 20 years ago remain today, and the promise to correct them is unfulfilled." The Task Force further recommended that the task of reorganizing and simplifying VA regulations "should be an immediate priority." Consequently, the Secretary is delegating responsibility to the ASRPM to manage the Department's revision and reorganization of VA regulations.

Second, the ASRPM is responsible for devising and implementing new procedures to centralize control and improve Secretarial oversight, management, drafting efficiency, policy resolution, impact analysis, and coordination of diverse VA regulations. In the past, VA rulemaking procedures have varied among the Department's three major administrations, the Veterans Health Administration, the Veterans Benefits Administration, and the National Cemetery Administration, and among the Department's staff offices. The Secretary approved the creation of ORPM to serve as the centralized rulemaking policy and management structure in the Office of the Secretary. In this document, the Secretary is delegating authority to the ASRPM to manage and coordinate the Department's rulemaking activities.

As an Assistant to the Secretary, the ASRPM will help the Secretary integrate and resolve significant policy issues affecting VA regulations early in the drafting process. The ASRPM will serve as the Executive Secretary to the Secretary's Regulatory Policy Council (the Council), which will ensure that the Department's rulemaking proposals support the Secretary's priorities for assisting America's veterans. The Council will consist of the Secretary, the