

if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

- The wing and tail leading edge pneumatic deicing boot system may be deactivated only after:

- leaving known or observed/detected icing that the flight crew has visually observed on the aircraft or was identified by the on-board sensors; and

- after the airplane is determined to be clear of ice.”

Note: The FAA recommends periodic treatment of deicing boots with approved ice release agents, such as ICEX,TM in accordance with the manufacturer's application instructions.

(e) *Can the pilot accomplish the action?* Anyone who holds at least a private pilot certificate, as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), may incorporate the AFM revisions required by this AD. You must make an entry into the aircraft records that shows compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(f) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(g) *Where can I get information about any already-approved alternative methods of compliance?* Contact S.M. Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4145; facsimile: (816) 329-4090.

(h) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(i) *When does this amendment become effective?* This amendment becomes effective on August 21, 2000.

Issued in Kansas City, Missouri, on July 3, 2000.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00-17295 Filed 7-7-00; 8:45 am]

BILLING CODE 4910-13-U

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

RIN 0960-AF20

Administrative Procedure for Imposing Penalties for False or Misleading Statements

AGENCY: Social Security Administration (SSA).

ACTION: Interim final rules with a request for comments.

SUMMARY: We are issuing these interim final rules to reflect and implement section 207 of the Foster Care Independence Act of 1999 (Public Law (Pub. L.) 106-169). This provision amended the Social Security Act (the Act) by adding a new section 1129A which provides for the imposition by SSA of a penalty on any person who knowingly (knew or should have known or acted with knowing disregard for the truth) makes a statement that is false or misleading or omits a material fact for use in determining any right to or the amount of monthly benefits under titles II or XVI. The penalty is nonpayment for a specified number of months of benefits under title II that would otherwise be payable to the person and ineligibility for cash benefits under title XVI (including State supplementary payments made by SSA according to § 416.2005).

Although we are issuing these rules as interim final rules, we are also asking for public comments on the changes made by these rules.

DATES: These regulations are effective July 10, 2000. To be sure your comments are considered, we must receive them by September 8, 2000.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235-7703, sent by telefax to (410) 966-2830, sent by E-mail to “regulations@ssa.gov,” or delivered to the Office of Process and Innovation Management, Social Security Administration, L2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these hours by making

arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT:

Gareth Dence, Social Insurance Specialist, Office of Program Benefits, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-9872 or TTY (410) 966-5609. For information on eligibility, claiming benefits, or coverage of earnings, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778.

SUPPLEMENTARY INFORMATION:

Background

Section 207 of the Foster Care Independence Act of 1999 (Pub. L. 106-169) amended title XI of the Act by adding section 1129A to help prevent and respond to fraud and abuse in SSA's programs and operations. Section 1129A provides for the imposition by SSA of a penalty on an individual who makes, or causes to be made, a statement or representation of a material fact that the person knows or should know is false or misleading or omits a material fact, or that the person makes with a knowing disregard for the truth. The statement must be made for use in determining eligibility for or the amount of benefits under title II or XVI. The penalty is nonpayment for 6, 12 or 24 months of benefits under title II that would otherwise be payable to the person and ineligibility for the same period of time for cash benefits under title XVI (including State supplementary payments made by SSA according to § 416.2005).

Section 207 of Pub. L. 106-169 directs the Commissioner of Social Security to develop rules prescribing the administrative process for making determinations under section 1129A, including when periods of penalty shall commence, and providing guidance on the exercise of discretion as to whether the penalty should be imposed in particular cases. Consequently, we are adding new rules at §§ 404.459 and 416.1340 to reflect and implement section 1129A.

Section 1129A of the Act applies to statements and representations made on or after December 14, 1999, the date of enactment of the Foster Care Independence Act of 1999.

Explanation of Changes

We are adding new §§ 404.459 and 416.1340 to our regulations. The organization and wording of these two sections are essentially identical. These sections make it clear, and as Congress provided, that if an individual knowingly (knew or should have known

or acted with knowing disregard for the truth) made a false or misleading statement with respect to one program, the penalty shall apply to benefits under both the title II and XVI programs.

Applying the penalty to both programs helps protect the integrity of both programs from further fraud by the same person and helps to maintain public confidence in the integrity of our programs. A subsection-by-subsection discussion of these rules follows.

Subsection (a) describes the conditions under which you will be subject to a penalty by SSA for knowingly making a false or misleading statement of a material fact.

Subsection (b) explains that the penalty is both nonpayment of benefits under title II and ineligibility for cash benefits under title XVI. When we impose a penalty on you, you cannot receive benefits under either title II or title XVI even if the false or misleading statement was made in connection with benefits under only one of the two programs. We further explain that, as provided by the law, if we impose a penalty on your title XVI benefits, you also will not be eligible to receive State supplementary payments that SSA pays by agreement with the State.

Subsection (c) explains how long the penalty for making a false or misleading statement will last. As provided in section 1129A, the penalty will last six consecutive months the first time we penalize you, twelve consecutive months the second time we penalize you, and twenty-four consecutive months the third or subsequent time we penalize you. The penalty will not begin to run until you would otherwise be eligible for payment of benefits under either title II or title XVI. You will be ineligible to receive benefits at any time during the penalty period. If more than one penalty period has been imposed but they have not yet run, the penalties will not run concurrently.

Subsection (d) explains, as provided in section 1129A, that the imposition of a penalty will affect only your own eligibility for benefits under titles II and XVI. If we impose a penalty on you, the penalty will not affect the eligibility or amount of benefits payable under titles II or XVI to another person. For example, another person (such as your spouse or child) may be entitled to benefits under title II based on your earnings record. Benefits would still be payable to that person to the extent that you would be receiving such benefits if the penalty had not been imposed. As another example, if you are receiving title II benefits that are limited under the family maximum provision (§ 404.403) and we stop your benefits

because we impose a penalty on you, we will not increase the benefits of other family members who are limited by the family maximum provision simply because you are not receiving benefits as a result of the penalty. As a third example, if you and your spouse are receiving title XVI benefits, those benefit payments to your spouse based on the benefit rate for a couple will not be affected because of the penalty. Your spouse will continue to receive one half of the couple rate.

Section 1129A also specifically provides that the imposition of a penalty will not affect your eligibility for Medicare and Medicaid benefits (titles XVIII and XIX of the Act).

Subsection (e) explains that to impose a penalty on you, we must find that you knowingly made a false or misleading statement or omitted a material fact. "Knowingly" means that you knew or should have known that the statement was false or misleading or omitted a material fact, or you made the statement with a knowing disregard for the truth. We will base our decision to impose a penalty on the evidence and the reasonable inferences that can be drawn from that evidence, not on mere speculation or suspicion. In determining whether you knowingly made a false or misleading statement or omitted a material fact, we will consider all of the evidence in the record, including any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time. In determining whether you acted knowingly, we will also consider the significance of the statement in terms of its likely impact on your benefits under titles II and/or XVI.

Your false or misleading statement may be investigated for fraud by the Office of the Inspector General for civil monetary penalty purposes (see section 1129 of the Act) or prosecuted by the United States Attorney's Office. We may impose a penalty under these rules in addition to any other penalties that may be prescribed by law.

Subsection (f) explains that if you disagree with our initial determination to impose a penalty, you have the right to request reconsideration of the penalty decision, as discussed in §§ 404.907 and 416.1407. If you do request reconsideration, you will be able to present your case in one of three ways:

1. Case review—We will give you an opportunity to review the evidence in our files and then to present oral and written evidence to us;
2. Informal conference—In addition to following the procedures of a case

review, we will give you an opportunity to present witnesses; and

3. Formal conference—In addition to following the procedures of an informal conference, we will give you an opportunity to request us to subpoena adverse witnesses and relevant documents and to cross-examine adverse witnesses.

After reconsideration, if you do not agree with our reconsidered determination you may follow the normal administrative and judicial review process by requesting a hearing before an administrative law judge, Appeals Council review and Federal court review, as described in §§ 404.900 and 416.1400.

Subsection (g) explains when the penalty period begins and ends. That section explains that the penalty period will not begin until the month you would otherwise be eligible to receive payments under either title II or title XVI. In addition, the point at which the penalty period begins may depend on whether you request reconsideration of our initial determination to penalize you. If you do not request reconsideration, the penalty period will begin no earlier than the first day of the second month following the month in which the time limit for requesting reconsideration ends. If you request reconsideration and our reconsidered determination does not change our original decision to penalize you, the penalty period will begin no earlier than the first day of the second month following the month we notify you of our reconsidered determination. The penalty period ends on the last day of the final month of the penalty period. Once a sanction period begins it will run continuously even if payments are intermittent.

Clarity of These Regulations

Executive Order (E.O.) 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. In addition to your substantive comments on these rules, we invite your comments on how to make these rules easier to understand.

For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that is unclear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?

- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

Electronic Version

The electronic file of this document is available on the internet at http://www.access.gpo.gov/su_docs/aces/aces140.html. It is also available on the internet site for SSA (*i.e.*, SSA Online) at <http://www.ssa.gov/>.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Pub. L. 103–296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, for the reasons discussed below, good cause exists under 5 U.S.C. 553(b)(B) for dispensing with the notice and public comment procedures in this case.

Pub. L. 106–169 was signed into law on December 14, 1999. Section 207 applies to statements and representations made on or after this date of enactment. Moreover, section 207 requires the Commissioner to issue regulations prescribing the administrative process for making determinations under this section within 6 months after enactment. Accordingly, issuing these rules as a notice of proposed rulemaking would have delayed issuance of final rules until well past the statutory effective date and the regulatory issuance date specified by Congress. Therefore, issuing these regulations as interim final rules allows us to come as close as possible to that specified date.

In light of the immediacy of the effective date and the Congressional direction that we issue regulations needed to carry out these statutory provisions within 6 months, we believe that, under the APA, good cause exists for waiver of the prior notice procedures since issuance of proposed rules would be impracticable. Although we are issuing these rules as interim final regulations, we are requesting public comments regarding the substance of these interim final rules and will issue revised rules if necessary.

For the same reasons, we also find good cause for dispensing with the 30-day delay in the effective date of a

substantive rule, provided for by 5 U.S.C. 553(d).

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these interim final rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review. We have also determined that these rules meet the plain language requirement of Executive Order 12866 and the President's memorandum of June 1, 1998. However, as noted earlier, we invite your comments on how to make the rules easier to understand.

Regulatory Flexibility Act

We certify that these interim final regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These interim final regulations will impose no additional reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006 Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income.

Dated: June 28, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set forth in the preamble, we are amending subpart E of part 404 and subpart M of part 416 of the Code of Federal Regulations as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart E—[Amended]

1. The authority citation for subpart E of part 404 is revised to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 222(b), 223(e), 224, 225, 702(a)(5) and 1129A of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 422(b), 423(e), 424a, 425, 902(a)(5) and 1320a–8a).

2. Section 404.459 is added to read as follows:

§ 404.459 Penalty for false or misleading statements.

(a) *Why would SSA penalize me?* You will be subject to a penalty if you make, or cause to be made, a statement or representation of a material fact for use in determining any initial or continuing right to, or the amount of, monthly insurance benefits under title II or benefits or payments under title XVI and:

(1) You know or should know that the statement or representation—

- (i) Is false or misleading; or
- (ii) Omits a material fact; or

(2) You make the statement with a knowing disregard for the truth.

(b) *What is the penalty?* The penalty is nonpayment of benefits under title II that we would otherwise pay you and ineligibility for cash benefits under title XVI (including State supplementary payments made by SSA according to § 416.2005).

(c) *How long will the penalty last?* The penalty will last—

(1) Six consecutive months the first time we penalize you;

(2) Twelve consecutive months the second time we penalize you; and

(3) Twenty-four consecutive months the third or subsequent time we penalize you.

(d) *Will this penalty affect any of my other government benefits?* If we penalize you, the penalty will apply only to your eligibility for benefits under titles II and XVI (including State supplementary payments made by us according to § 416.2005). The penalty will not affect—

(1) Your eligibility for benefits that you would otherwise be eligible for under titles XVIII and XIX but for the imposition of the penalty; and

(2) The eligibility or amount of benefits payable under titles II or XVI to another person. For example, another person (such as your spouse or child) may be entitled to benefits under title II based on your earnings record. Benefits would still be payable to that person to

the extent that you would be receiving such benefits but for the imposition of the penalty. As another example, if you are receiving title II benefits that are limited under the family maximum provision (§ 404.403) and we stop your benefits because we impose a penalty on you, we will not increase the benefits of other family members who are limited by the family maximum provision simply because you are not receiving benefits because of the penalty.

(e) *How will SSA make its decision to penalize me?* In order to impose a penalty on you, we must find that you knowingly (knew or should have known or acted with knowing disregard for the truth) made a false or misleading statement or omitted a material fact. We will base our decision to penalize you on the evidence and the reasonable inferences that can be drawn from that evidence, not on speculation or suspicion. Our decision to penalize you will be documented with the basis and rationale for that decision. In determining whether you knowingly made a false or misleading statement or omitted a material fact so as to justify imposition of the penalty, we will consider all evidence in the record, including any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time. In determining whether you acted knowingly, we will also consider the significance of the false or misleading statement or omission in terms of its likely impact on your benefits.

(f) *What should I do if I disagree with SSA's initial determination to penalize me?* If you disagree with our initial determination to impose a penalty, you have the right to request reconsideration of the penalty decision as explained in § 404.907. We will give you a chance to present your case, including the opportunity for a face-to-face conference. If you request reconsideration of our initial determination to penalize you, you have the choice of a case review, informal conference, or formal conference, as described in § 416.1413(a) through (c). If you disagree with our reconsidered determination you have the right to follow the normal administrative and judicial review process by requesting a hearing before an administrative law judge, Appeals Council review and Federal court review, as explained in § 404.900.

(g) *When will the penalty period begin and end?* Subject to the additional limitations noted in paragraphs (g)(1) and (g)(2) of this section, the penalty period will begin the first day of the month for which you would otherwise

receive payment of benefits under title II or title XVI were it not for imposition of the penalty. Once a sanction begins, it will run continuously even if payments are intermittent. If more than one penalty has been imposed, but they have not yet run, the penalties will not run concurrently.

(1) If you do not request reconsideration of our initial determination to penalize you, the penalty period will begin no earlier than the first day of the second month following the month in which the time limit for requesting reconsideration ends. The penalty period will end on the last day of the final month of the penalty period. For example, if the time period for requesting reconsideration ends on January 10, a 6-month period of nonpayment begins on March 1 if you would otherwise be eligible to receive benefits for that month, and ends on August 31.

(2) If you request reconsideration of our initial determination to penalize you and the reconsidered determination does not change our original decision to penalize you, the penalty period will begin no earlier than the first day of the second month following the month we notify you of our reconsidered determination. The penalty period will end on the last day of the final month of the penalty period. For example, if we notify you of our reconsidered determination on August 31, 2001, and you are not otherwise eligible for payment of benefits at that time, but would again be eligible to receive payment of benefits on October 1, 2003, a 6-month period of nonpayment would begin on October 1, 2003 and end on March 31, 2004.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart M—[Amended]

3. The authority citation for subpart M of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1129A, 1611–1615, 1619, and 1631 of the Social Security Act (42 U.S.C. 902(a)(5), 1382–1382d, 1382h, 1383 and 1320a–8a).

4. Section 416.1340 is added to read as follows:

§ 416.1340 Penalty for false or misleading statements.

(a) *Why would SSA penalize me?* You will be subject to a penalty if you make, or cause to be made, a statement or representation of a material fact for use in determining any initial or continuing right to, or the amount of, monthly insurance benefits under title II or benefits or payments under title XVI and:

(1) You know or should know that the statement or representation

- (i) Is false or misleading; or
- (ii) Omits a material fact; or

(2) You make the statement with a knowing disregard for the truth.

(b) *What is the penalty?* The penalty is ineligibility for cash benefits under title XVI (including State supplementary payments made by SSA according to § 416.2005) and nonpayment of any benefits under title II that we would otherwise pay you.

(c) *How long will the penalty last?* The penalty will last—

(1) Six consecutive months the first time we penalize you;

(2) Twelve consecutive months the second time we penalize you; and

(3) Twenty-four consecutive months the third or subsequent time we penalize you.

(d) *Will this penalty affect any of my other government benefits?* If we penalize you, the penalty will apply only to your eligibility for benefits under titles II and XVI (including State supplementary payments made by us according to § 416.2005). The penalty will not affect—

(1) Your eligibility for benefits that you would otherwise be eligible for under titles XVIII and XIX but for the imposition of the penalty; and

(2) The eligibility or amount of benefits payable under titles II or XVI to another person. For example, if you and your spouse are receiving title XVI benefits, those benefit payments to your spouse based on the benefit rate for a couple will not be affected because of the penalty. Your spouse will receive one half of the couple rate.

(e) *How will SSA make its decision to penalize me?* In order to impose a penalty on you, we must find that you knowingly (knew or should have known or acted with knowing disregard for the truth) made a false or misleading statement or omitted a material fact. We will base our decision to penalize you on the evidence and the reasonable inferences that can be drawn from that evidence, not on speculation or suspicion. Our decision to penalize you will be documented with the basis and rationale for that decision. In determining whether you knowingly made a false or misleading statement or omitted a material fact so as to justify imposition of the penalty, we will consider all evidence in the record, including any physical, mental, educational, or linguistic limitations (including any lack of facility with the English language) which you may have had at the time. In determining whether

you acted knowingly, we will also consider the significance of the false or misleading statement or omission in terms of its likely impact on your benefits.

(f) *What should I do if I disagree with SSA's initial determination to penalize me?* If you disagree with our initial determination to impose a penalty, you have the right to request reconsideration of the penalty decision as explained in § 416.1407. We will give you a chance to present your case, including the opportunity for a face-to-face conference. If you request reconsideration of our initial determination to penalize you, you have the choice of a case review, informal conference, or formal conference, as described in § 416.1413(a) through (c). If you disagree with our reconsidered determination you have the right to follow the normal administrative and judicial review process by requesting a hearing before an administrative law judge, Appeals Council review and Federal court, review as explained in § 416.1400.

(g) *When will the penalty period begin and end?* Subject to the additional limitations noted in paragraphs (g)(1) and (g)(2) of this section, the penalty period will begin the first day of the month for which you would otherwise receive payment of benefits under title II or title XVI were it not for imposition of the penalty. Once a sanction begins, it will run continuously even if payments are intermittent. If more than one penalty has been imposed, but they have not yet run, the penalties will not run concurrently.

(1) If you do not request reconsideration of our initial determination to penalize you, the penalty period will begin no earlier than the first day of the second month following the month in which the time limit for requesting reconsideration ends. The penalty period will end on the last day of the final month of the penalty period. For example, if the time period for requesting reconsideration ends on January 10, a 6-month period of nonpayment begins on March 1 if you would otherwise be eligible to receive benefits for that month, and ends on August 31.

(2) If you request reconsideration of our initial determination to penalize you and the reconsidered determination does not change our original decision to penalize you, the penalty period will begin no earlier than the first day of the second month following the month we notify you of our reconsidered determination. The penalty period will end on the last day of the final month of the penalty period. For example, if

we notify you of our reconsidered determination on August 31, 2001, and you are not otherwise eligible for payment of benefits at that time, but would again be eligible to receive payment of benefits on October 1, 2003, a 6-month period of nonpayment would begin on October 1, 2003 and end on March 31, 2004.

[FR Doc. 00-17270 Filed 7-7-00; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-00-130]

RIN 2115-AA97

Safety Zone: USS John F. Kennedy, Boston Harbor, Boston, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary moving safety zones around the aircraft carrier USS *John F. Kennedy* as it transits Boston Harbor on July 10, and 17, 2000. The safety zones will be in effect Monday, July 10, 2000 from 5 a.m. to 8 a.m. Eastern Daylight Time (EDT) as the vessel transits inbound from the "NC" buoy to the North Jetty and Monday, July 17, 2000 from 12 noon to 2 p.m. on July 17, 2000 from North Jetty to the "NC" buoy as the vessel departs the Port of Boston. The safety zones are needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with the ship's limited maneuverability.

DATES: This rule is effective from 6 a.m. on Monday, July 10, 2000 until 2 p.m. on Monday, July 17, 2000.

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 docket CGD01-00-130 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Boston, 455 Commercial Street, Boston, MA 02109 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Brian Downey, Marine Safety Office Boston, 617-223-3000.

SUPPLEMENTARY INFORMATION:

Regulatory Information

As authorized by 5 U.S.C. 553(b)(B), a notice of proposed rulemaking (NPRM) was not published for this

regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after publication in the **Federal Register**. Due to the complex planning and coordination involved with naval scheduling, final details for the temporary closure were not provided to the Coast Guard in time to draft and publish a NPRM or a final rule 30 days in advance of its effective date. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to temporarily close a portion of Boston Harbor waterway and protect the maritime public from the hazards associated with the limited maneuverability of an aircraft carrier.

Background and Purpose

This regulation establishes two moving safety zones extending 300 yards in all directions from the aircraft carrier USS *John F. Kennedy*. The first safety zone will be enforced during the ship's transit from the Boston Harbor Entrance lighted whistle buoy "NC" (LLNR 10680) en route to North Jetty on July 10, 2000 from 6 a.m. to 8 a.m. or until the ship is safely moored. The second safety zone will be enforced on July 17, 2000 from 12 noon to 2 p.m. during the ship's outbound transit from North Jetty to the Boston Harbor Entrance lighted whistle buoy "NC" (LLNR 10680).

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).

The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone temporarily closes portions of North Channel, President Roads, and Boston Inner Harbor. Due to the limited duration of the event, and the Coast Guard's advance marine advisories, the safety zone will minimally affect vessel traffic.

Small Entities

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