

paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

#### List of Subjects in 33 CFR Part 100

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

■ For the reasons set out in the preamble, the Coast Guard amends 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; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 100.35T–07–151 to read as follows:

#### **§ 100.35T–07–151 2003 Holiday Boat Parade of the Palm Beaches, Riviera Beach, FL**

(a) *Regulated areas.* (1) The regulated staging area encompasses all waters within the Lake Worth Inlet, Port of Palm Beach, turning basin, west of a line connecting Marker 12 on the north side of the turning basin and Marker 13 on the south side of the turning basin.

(2) The regulated parade area encompasses all waters of the Intracoastal Waterway from Lake Worth South Section Marker 1 behind Peanut Island north to Lake Worth Creek Marker 19 at Jonathan's Landing Marina.

(b) *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 Commander, Coast Guard Group Miami, Florida.

(c) *Special local regulations.* (1) *Staging areas.* Entry or anchoring in the staging area by non-participating vessels is prohibited, unless authorized by the Coast Guard patrol commander.

(2) *Parade route.* During the transit of parade vessels, non-participating vessels are prohibited from approaching within 500 feet ahead of the lead parade vessel, 500 feet astern of the last participating vessel in the parade, or within 50 feet either side of the outboard parade vessels, unless authorized by the Coast Guard patrol commander.

(d) *Effective period:* This section is effective from 6 p.m. until 9 p.m. on December 6, 2003.

Dated: November 25, 2003.

**Harvey E. Johnson, Jr.,**

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

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**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Diego 03–032]

RIN 1625–AA00

#### **Security Zone: Coronado Bay Bridge, San Diego, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary security zones encompassing navigable waters 25 yards around all piers, abutments, fenders and pilings of the Coronado Bay Bridge. These temporary security zones are needed for national security reasons to protect the public and ports from potential subversive actions. Persons and vessels are prohibited from entering into, transiting through, loitering, or anchoring within these security zones unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from November 7, 2003, until May 1, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP San Diego 03–032] and are available for inspection or copying at Marine Safety Office San Diego, 2716 North Harbor Drive, San Diego, CA 92101–1064 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Austin Murai, USCG, c/o U.S. Coast Guard Captain of the Port, telephone (619) 683–6495

#### **SUPPLEMENTARY INFORMATION:**

#### **Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) the Coast Guard finds that good cause exists for not publishing an NPRM. Also, for the same reasons, 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**. The threat of maritime attacks is real as evidenced by the October 2002 attack of a tank vessel off the coast of Yemen and the continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered by the September, 11, 2001 attacks and that such disturbances continue to endanger the international

relations of the United States. See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks, (67 FR 58317, September 13, 2002); Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism, (67 FR 59447, September 20, 2002).

As a result, a heightened level of security has been established around the Coronado Bridge. Maintaining the structural integrity of the Coronado Bridge, which spans San Diego Bay, is very important to the local economy and military units within the San Diego Area. The measures contemplated by this rule are intended to prevent future terrorist attacks against individuals on or near the Coronado Bridge. Any delay in the effective date of this TFR is impractical and contrary to the public interest.

#### **Background and Purpose**

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan and the war with Iraq have made it prudent to U.S. ports to be on higher state of alert because the Al-Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide. In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures.

In this particular rulemaking, to address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against the Coronado Bridge would have on the public interest, the Coast Guard is establishing security zones around the Coronado Bridge. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against these bridges. Due to these heightened security concerns, and the catastrophic impact a terrorist attack on this bridge would have on the public,

the transportation system and surrounding areas and communities, security zones are prudent for these structures.

### Discussion of Rule

In this temporary rule, the Coast Guard is establishing fixed security zones encompassing, from the surface to the sea floor, navigable waters 25 yards around all piers, abutments, fenders and pilings of the Coronado Bridge, San Diego Bay, California. Entry into these security zones is prohibited unless doing so is necessary for safe navigation or to conduct official business such as scheduled maintenance or retrofit operations. Vessels and people may be allowed to enter an established security zone on a case-by-case basis with authorization from the Captain of the Port.

Vessels or persons violating this section will be subject to the penalties set forth in 33 U.S.C. 1232. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein is punishable by civil penalties, criminal penalties (including imprisonment up to 6 years), and in rem liability against the offending vessel. Any person who violates this section using a dangerous weapon or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years.

Coast Guard personnel will enforce this regulation and the Captain of the Port may be assisted by other Federal, State, or local agencies in the patrol and enforcement of the regulation. This regulation is proposed under the authority of 33 U.S.C. 1226 in addition to the authority contained in 33 U.S.C. 1231.

### 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 regulation restricts access to portions of the navigable waterways around the bridge, the effect of this regulation will not be significant because: (i) The zones will encompass only a small portion of the waterway; (ii) Vessels will be able to pass safely around the zones; and (iii) Vessels may be allowed to enter these zones on a

case-by-case basis with permission of the Captain of the Port, or his designated representative.

The sizes of the zones are the minimum necessary to provide adequate protection for the bridges, vessels operating in the vicinity, adjoining areas and the public. The entities most likely to be affected are commercial vessels transiting the main ship channel en route the southern San Diego Bay and Chula Vista ports and pleasure craft engaged in recreational activities and sightseeing.

### 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of commercial vessels transiting the main ship channel en route the southern San Diego Bay and Chula Vista ports and pleasure craft engaged in recreational activities and sightseeing. The security zones will not have a significant economic impact on a substantial number of small entities for several reasons: small vessel traffic can pass safely around the security zones and vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the security zones to engage in these activities. Small entities and the maritime public will be advised of these security zones via public notice to mariners.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander Rick Sorrell, USCG, c/o U.S. Coast Guard Captain of the Port,

telephone (619) 683–6495 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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

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

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not

an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 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.

#### 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 security zone.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be available in the docket where indicated under **ADDRESSES**.

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

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

■ For the reasons discussed in the preamble, the Coast Guard 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add new § 165.T11–030 to read as follows:

#### § 165.T11–030 Security Zone: Coronado Bay Bridge, San Diego, CA.

(a) *Location.* All navigable waters, extending from the surface to the sea floor, 25 yards around all piers, abutments, fenders and pilings of the Coronado Bay Bridge spanning San Diego Bay. This security zone will not restrict the main navigational channel and vessels will not be restricted from transiting through the channel.

(b) *Effective period.* This section is effective from November 7, 2003, until May 1, 2004. If the Coast Guard terminates enforcement of this security zone prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into, transit through, loitering, or anchoring within this security zone by all persons and vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners are advised that the security zones will not restrict the main navigational channel and transit through the channel is not prohibited. Mariners requesting permission to transit through the security zone may request authorization to do so from Captain of the Port or his designated representative. The Coast Guard can be contacted on San Diego Bay via VHF-FM channel 16.

(d) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

Dated: November 4, 2003.

**Stephen P. Metruck,**

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

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[DE072–1042a; FRL–7593–5]

#### Approval and Promulgation of Air Quality Implementation Plans; Delaware; MOBILE6-Based Motor Vehicle Emission Budgets for the Delaware Portion of the Philadelphia-Wilmington-Trenton 1-Hour Ozone Nonattainment Area

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Delaware State Implementation Plan (SIP). Specifically, EPA is approving amendments to the 2005 highway (on road) motor vehicle emission inventory for the Delaware portion of the Philadelphia-Wilmington-Trenton area's (the Philadelphia area) 1-hour ozone attainment plan as a revision to the Delaware SIP. This revision also serves to amend the 2005 motor vehicle emission budgets (MVEBs) used for determining transportation conformity under the Clean Air Act. The revised MVEBs were developed using MOBILE6, the most recent version of EPA's mobile source emission factor model. Revision of the MVEBs was a requirement of EPA's prior approval of Delaware's 1-hour ozone attainment demonstration plan for the Philadelphia severe ozone nonattainment area. The intended effect of this direct final approval action is to approve a SIP revision that will assist Delaware in attaining and demonstrating conformity with the 1-hour ozone standard. This action is being taken by EPA in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on February 3, 2004 without further notice, unless EPA receives adverse written comment by January 5, 2004. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Robert Kramer, Chief, Energy, Radiation and Indoor Environment Branch, Mailcode 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to [kramer.robert@epa.gov](mailto:kramer.robert@epa.gov) or to