

## 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 considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are establishing security zones. A "Categorical Exclusion Determination" is available in the docket for inspection or copying 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. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. Add new temporary § 165.T11-065 to read as follows:

### § 165.T11-065 Security Zones; Cruise ships, San Pedro Bay, California.

(a) *Definition*. "Cruise ship" as used in this section means a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire; making voyages lasting more than 24 hours, any part of which is on the high seas; and for which passengers are embarked or disembarked in the Port of Los Angeles or Port of Long Beach. It does not apply to ferries that hold Coast Guard Certificates of Inspection endorsed for "Lakes, Bays, and Sounds", and that transit international waters for only short periods of time, on frequent schedules.

(b) *Location*. The following areas are security zones:

(1) All waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is anchored at a designated anchorage either inside the Federal breakwaters bounding San Pedro Bay or outside at designated anchorages within three nautical miles of the Federal breakwaters;

(2) The shore area and all waters, extending from the surface to the sea floor, within a 100 yard radius around any cruise ship that is moored, or is in the process of mooring, at any berth within the Los Angeles or Long Beach port areas inside the Federal breakwaters bounding San Pedro Bay; and

(3) All waters, extending from the surface to the sea floor, within 200 yards ahead, and 100 yards on each side and astern of a cruise ship that is underway either on the waters inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles seaward of the Federal breakwaters.

(c) *Regulations*. (1) In accordance with the general regulations in § 165.33 of this part, entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Los Angeles-Long Beach, or his designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 1-800-221-8724 or on VHF-FM channel 16 (156.8 MHz) to seek permission to

transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(d) *Authority*. In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(e) *Enforcement*. The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zone by the Los Angeles Port Police and the Long Beach Police Department.

(f) *Effective period*. This section is effective from 11:59 p.m. PDT on May 1, 2002 through 11:59 p.m. PST on December 1, 2002.

Dated: May 1, 2002.

**J.M. Holmes,**

*Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.*

[FR Doc. 02-11917 Filed 5-10-02; 8:45 am]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 165

[LANT AREA-02-001]

RIN 2115-AG33

### Protection of Naval Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing regulations for the safety and security of U.S. naval vessels in the navigable waters of the United States. Naval vessel protection zones will provide for the regulation of vessel traffic in the vicinity of many U.S. naval vessels in the navigable waters of the United States.

**DATES:** This rule is effective beginning June 15, 2002.

**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 LANTAREA 02-001 and are available for inspection or copying at Commander (Amr), Coast Guard Atlantic Area, 431 Crawford Street, Portsmouth, VA 23704-5004 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander Chris Doane, Commander (Amr), Coast Guard Atlantic Area, 431 Crawford Street, Portsmouth, VA 23704-5004; telephone number (757) 398-6372.

**SUPPLEMENTARY INFORMATION:**

## Regulatory Information

On September 21, 2001, the Coast Guard published a temporary final rule entitled "Protection of Naval Vessels" in the **Federal Register** (66 FR 48779). The temporary final rule continues until June 15, 2002.

On February 21, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Protection of Naval Vessels" in the **Federal Register** (67 FR 7992). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

## Background and Purpose

These zones are necessary to provide for the safety and security of United States naval vessels in the navigable waters of the United States. The regulations are issued under the authority contained in 14 U.S.C. 91. Prior to issuing the temporary final rule on September 21, 2001, no regulation existed implementing 14 U.S.C. 91.

We determined that a continuing need existed for the protection of naval vessels. Therefore, we are establishing a final rule that will replace the temporary rule.

The temporary final rule continues until June 15, 2002. The permanent final rule becomes effective June 15, 2002.

## Discussion of Comments and Changes

We received no comments on the proposed rule. Therefore, we have made no changes and plan to implement the provisions of the proposed rule as written.

## 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 Transportation (DOT) (44 FR 11040, February 26, 1979).

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) individual naval vessel protection zones are limited in size; (ii) the Coast Guard, senior naval officer present in command, or official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will only affect a given geographical location for a limited time; and (iv) when conditions permit, the Coast Guard, senior naval officer present

in command, or the official patrol should give advance notice of all naval vessel movements on VHF-FM channel 16 so mariners can adjust their plans accordingly.

## Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed 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 proposed 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 vessels intending to operate near or anchor in the vicinity of U.S. naval vessels in the navigable waters of the United States.

This regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual naval vessel protection zones are limited in size; (ii) the official patrol may authorize access to the naval vessel protection zone; (iii) the naval vessel protection zone for any given transiting naval vessel will only affect a given geographic location for a limited time; and (iv) when conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should give advance notice of all naval vessel movements on VHF-FM channel 16 so mariners can adjust their plans accordingly.

## Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**.

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 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 would 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 considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection and copying where indicated under ADDRESSES.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Protection of naval vessels, 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 subpart G reads as follows:

**Authority:** 14 U.S.C. 91 and 633; 49 CFR 1.45.

2. Subpart G is added to part 165 to read as follows:

#### Subpart G—Protection of Naval Vessels

Sec.

165.2010 Purpose.

165.2015 Definitions.

165.2020 Enforcement authority.

165.2025 Atlantic Area.

#### Subpart G—Protection of Naval Vessels

##### § 165.2010 Purpose.

This subpart establishes the geographic parameters of naval vessel protection zones surrounding U.S. naval vessels in the navigable waters of the United States. This subpart also establishes when the U.S. Navy will take enforcement action in accordance with the statutory guidelines of 14 U.S.C. 91. Nothing in the rules and regulations contained in this subpart shall relieve any vessel, including U.S. naval vessels, from the observance of the Navigation Rules. The rules and regulations contained in this subpart supplement, but do not replace or supercede, any other regulation pertaining to the safety or security of U.S. naval vessels.

##### § 165.2015 Definitions.

The following definitions apply to this subpart:

*Atlantic Area* means that area described in 33 CFR 3.04-1 Atlantic Area.

*Large U.S. naval vessel* means any U.S. naval vessel greater than 100 feet in length overall.

*Naval defensive sea area* means those areas described in 32 CFR part 761.

*Naval vessel protection zone* is a 500-yard regulated area of water surrounding large U.S. naval vessels that is necessary to provide for the safety or security of these U.S. naval vessels.

*Navigable waters of the United States* means those waters defined as such in 33 CFR part 2.

*Navigation rules* means the Navigation Rules, International-Inland.

*Official patrol* means those personnel designated and supervised by a senior naval officer present in command and tasked to monitor a naval vessel protection zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone, and take other actions authorized by the U.S. Navy.

*Pacific Area* means that area described in 33 CFR 3.04-3 Pacific Area.

*Restricted area* means those areas established by the Army Corps of Engineers and set out in 33 CFR part 334.

*Senior naval officer present in command* is, unless otherwise designated by competent authority, the senior line officer of the U.S. Navy on active duty, eligible for command at sea,

who is present and in command of any part of the Department of Navy in the area.

*U.S. naval vessel* means any vessel owned, operated, chartered, or leased by the U.S. Navy; any pre-commissioned vessel under construction for the U.S. Navy, once launched into the water; and any vessel under the operational control of the U.S. Navy or a Combatant Command.

*Vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. naval vessels.

##### § 165.2020 Enforcement authority.

(a) *Coast Guard*. Any Coast Guard commissioned, warrant or petty officer may enforce the rules and regulations contained in this subpart.

(b) *Senior naval officer present in command*. In the navigable waters of the United States, when immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to exercise effective control in the vicinity of large U.S. naval vessels, the senior naval officer present in command is responsible for the enforcement of the rules and regulations contained in this subpart to ensure the safety and security of all large naval vessels present. In meeting this responsibility, the senior naval officer present in command may directly assist any Coast Guard enforcement personnel who are present.

##### § 165.2025 Atlantic Area.

(a) This section applies to any vessel or person in the navigable waters of the United States within the boundaries of the U.S. Coast Guard Atlantic Area, which includes the First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts.

**Note to § 165.2025 paragraph (a):** The boundaries of the U.S. Coast Guard Atlantic Area and the First, Fifth, Seventh, Eighth and Ninth U.S. Coast Guard Districts are set out in 33 CFR part 3.

(b) A naval vessel protection zone exists around U.S. naval vessels greater than 100 feet in length overall at all times in the navigable waters of the United States, whether the large U.S. naval vessel is underway, anchored, moored, or within a floating drydock, except when the large naval vessel is moored or anchored within a restricted area or within a naval defensive sea area.

(c) The Navigation Rules shall apply at all times within a naval vessel protection zone.

(d) When within a naval vessel protection zone, all vessels shall operate at the minimum speed necessary to maintain a safe course, unless required to maintain speed by the Navigation Rules, and shall proceed as directed by the Coast Guard, the senior naval officer present in command, or the official patrol. When within a naval vessel protection zone, no vessel or person is allowed within 100 yards of a large U.S. naval vessel unless authorized by the Coast Guard, the senior naval officer present in command, or official patrol.

(e) To request authorization to operate within 100 yards of a large U.S. naval vessel, contact the Coast Guard, the senior naval officer present in command, or the official patrol on VHF-FM channel 16.

(f) When conditions permit, the Coast Guard, senior naval officer present in command, or the official patrol should:

(1) Give advance notice on VHF-FM channel 16 of all large U.S. naval vessel movements; and

(2) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a large U.S. naval vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(3) Permit commercial vessels anchored in a designated anchorage area to remain at anchor when within 100 yards of passing large U.S. naval vessels; and

(4) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of a moored or anchored large U.S. naval vessel with minimal delay consistent with security.

**Note to § 165.2025 paragraph (f):** The listed actions are discretionary and do not create any additional right to appeal or otherwise dispute a decision of the Coast Guard, the senior naval officer present in command, or the official patrol.

Dated: April 26, 2002.

**Thad W. Allen,**

*Vice Admiral, U.S. Coast Guard, Commander, Atlantic Area.*

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## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### 36 CFR Parts 1220, 1222 and 1228

RIN 3095-AB02

#### Records Disposition

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Final rule.

**SUMMARY:** NARA is revising the records management regulations in Subchapter B to simplify certain records disposition procedures. The current rule addresses only hard copy distribution of agency records disposition manuals. This rule reflects agencies' use of the Internet and Intranets to distribute copies of agency records manuals that include the disposition authorities approved by NARA. The rule also eliminates the requirement that agencies request authority for a retention period that differs from the General Records Schedules if NARA previously has granted a disposition authority specifically to an agency. NARA is also correcting references in parts 1220, 1222, and 1228. This final rule will affect Federal agencies.

**EFFECTIVE DATE:** June 12, 2002.

**FOR FURTHER INFORMATION CONTACT:** Nancy Allard on 301-837-1850 or fax number 301-837-0319.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published in the July 17, 2001, *Federal Register* (66 FR 37202) for a 60-day public comment period. NARA notified Federal records officers of the availability of the proposed rule. A copy of the proposed rule was also posted on the NARA web site.

NARA received 14 responses to the proposed rule, 12 from Federal agencies and two from private sector commenters. Six agencies and the two non-Federal commenters concurred with both changes. Comments from six agencies on the proposed rule related mainly to the clarity of the requirements and the format of the electronic copies of schedules submitted to NARA. Comments on each of the sections of the regulation are summarized below, followed by NARA's response.

#### 36 CFR 1228.42

*Comment:* One agency recommended that NARA eliminate the requirement to submit a schedule for any deviation from GRS authorities.

*NARA response:* We did not adopt this comment. Application of the GRS is mandatory unless NARA has approved an alternate disposition. NARA has the statutory responsibility to approve all records disposition authorities, including those on agency-specific schedules and those contained in the GRS. See 44 U.S.C. 3303a.

#### 36 CFR 1228.42(b)

*Comments:* Under the new rule, agencies need to notify NARA when they intend to apply a previously approved agency schedule instead of a newly-approved or newly-revised GRS.

One agency suggested that it would be easier for agencies to notify NARA when they are not going to continue using the agency schedule rather than when they intend to continue to apply it. Another agency recommended that NARA add a time limit of 60-90 days for agencies to notify NARA that they intend to continue using their schedules. That agency also asked how NARA would determine which GRS items need be applied "without exception."

*NARA response:* The GRS, as the later authority, would normally supersede the agency schedule, so agencies need to tell NARA when they do not choose to apply the GRS. The rule has been modified to require notification within 90 days from issuance of the GRS change. GRS items that must be used without exception will be those that have a retention period based on another statutory or regulatory requirement. For example, retention periods for such records as accountable officers accounts and contracts are based on the statute of limitations on claims. A shorter retention period than provided in the law would deny an agency the ability to defend itself against claims, and a longer retention period may put the Government in jeopardy of processing untimely claims. NARA will identify such items clearly on the GRS Transmittal and in the disposition instruction for the applicable item.

#### 36 CFR 1228.42(c)

*Comment:* One agency commented that NARA needs to process schedules for exceptions to the GRS more quickly, including shortening the 45-day review period on pending schedules listed in *Federal Register* notices to 14 days.

*NARA response:* We did not adopt this comment. NARA is concerned about the time required to approve many of the schedules submitted by agencies, and has undertaken a review of the scheduling process. NARA will consider, as part of this review, whether the *Federal Register* notice period should be modified. Public notice on pending schedules is required by law (44 U.S.C. 3303a(a)), and the current review period provides reasonable accommodation. In the meantime, NARA appraisal archivists work with agencies to set priorities for schedule processing.

#### 36 CFR 1228.50(a)(4)

*Comments:* One agency asked for clarification of the requirement that agencies submit copies of schedules to NARA within 30 days as it relates to the provision in 36 CFR 1228.50(a)(4)(ii) that agencies submit a copy to NARA