

Department will charge additional costs in accordance with the Transactional Billing Rate Schedule established by NARA.

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**Kevin E. Bryant,**

*Deputy Director, Office of Directives Management, Department of State.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2023–0818]

RIN 1625–AA00

#### Safety Zone; Vessel Launch, San Diego Bay, San Diego, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters in the vicinity of General Dynamics NASSCO shipyard in San Diego Bay, San Diego, CA, during the launch of the USNS Robert Kennedy. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the launching and subsequent berthing of the USNS Robert Kennedy. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector San Diego.

**DATES:** This rule is effective from 7:30 a.m. on October 28, 2023, through 10:30 a.m. on October 28, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2023–0818 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email Lieutenant Junior Grade Shelley Turner, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email [MarineEventsSD@uscg.mil](mailto:MarineEventsSD@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking

§ Section  
U.S.C. United States Code

## II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. It is impracticable to publish an NPRM because we must establish this safety zone by October 28, 2023, to ensure the safety of response personnel and mariners associated with the launching of the USNS Robert Kennedy.

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**. Delaying the effective date of this rule would be contrary to the public interest because this rule is needed to protect mariners, commercial and recreational waterway users, and the USNS Robert Kennedy from dangers associated with the launching and berthing of the USNS Robert Kennedy on October 28, 2023.

## III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector San Diego (COTP) has determined that potential hazards associated with launching of the USNS Robert Kennedy on October 28, 2023, will be a safety concern for anyone in the vicinity of the General Dynamics NASSCO shipyard, San Diego Bay, San Diego, CA. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the USNS Robert Kennedy is being launched.

## IV. Discussion of the Rule

This rule establishes a safety zone from 7:30 a.m. until 10:30 a.m. on October 28, 2023. The safety zone will be in the vicinity of General Dynamics NASSCO shipyard in San Diego Bay, San Diego, CA. The safety zone will cover all navigable waters, from surface to sea bottom, of the San Diego Bay, CA, created by connecting the following

points: beginning at 32°41.39′ N, 117°08.66′ W (Point A); thence running southwesterly to 32°41.24′ N, 117°09.05′ W (Point B); thence running southeasterly to 32°41.05′ N, 117°08.73′ W (Point C); thence running northeasterly to 32°41.20′ N, 117°08.34′ W (Point D); thence running northwesterly to the beginning point. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the USNS Robert Kennedy is being launched. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

To seek permission to enter, hail Coast Guard Sector San Diego on VHF–FM Channel 16 or call the 24-hour Command Center at (619) 278–7000. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP’s designated representative. A *designated representative* means a Coast Guard coxswain or petty officer designated by or assisting the Captain of the Port Sector San Diego (COTP) in the enforcement of the safety zone.

The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs) as appropriate for the enforcement times and dates for the safety zone.

## V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, and limited duration of the safety zone. This safety zone impacts a small, designated area of the San Diego Bay for a very

limited period during the weekend when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

#### E. 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 (adjusted for inflation) 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.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting three hours that will prohibit entry within certain navigable waters of San Diego Bay, San Diego, CA in the vicinity of the General Dynamics NASSCO shipyard. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is

available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### 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:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T11–136 to read as follows:

#### § 165.T11–136 Safety Zone; Vessel Launch, San Diego Bay, San Diego, CA.

(a) *Location.* The following area is a safety zone: All waters of San Diego Bay, from surface to bottom, encompassed by a line connecting the following points beginning at 32°41.39′ N, 117°08.66′ W (Point A); thence running southwesterly to 32°41.24′ N, 117°09.05′ W (Point B); thence running southeasterly to 32°41.05′ N, 117°08.73′ W (Point C); thence running northeasterly to 32°41.20′ N, 117°08.34′ W (Point D); thence running northwesterly to the beginning point.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector San Diego (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP’s designated representative.

(2) To seek permission to enter, contact the COTP or the COTP’s

representative by VHF Channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNM)s, and/or Marine Safety Information Bulletins (MSIBs) as appropriate of the enforcement times and dates for the safety zone.

Dated: October 24, 2023.

**J.W. Spittler,**

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

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 79

[MB Docket No. 11-43; FCC 23-82; FR ID 181039]

### Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) expands its audio description requirements by phasing them in for an additional 10 designated market areas (DMAs) each year until all DMAs are included. This action is based on a finding that the costs of expanding the audio description regulations to DMAs 101 through 210 are reasonable for program owners, providers, and distributors.

**DATES:** Effective November 27, 2023.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Diana Sokolow, [Diana.Sokolow@fcc.gov](mailto:Diana.Sokolow@fcc.gov), of the Policy Division, Media Bureau, (202) 418-2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Second Report and Order, FCC 23-82, adopted and released on October 17, 2023. The full text of this document will be available at <https://docs.fcc.gov/public/attachments/FCC-23-82A1.pdf> and via ECFS at <https://www.fcc.gov/ecfs/>. Documents will be available electronically in ASCII, Microsoft Word,

and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), 1-844-4-FCC-ASL (1-844-432-2275) (videophone).

### Synopsis

1. In this Second Report and Order (Order), we expand our audio description requirements by phasing them in for an additional 10 designated market areas (DMAs) each year until all DMAs are included. Such an expansion will help ensure that a greater number of individuals who are blind or visually impaired can be connected, informed, and entertained by television programming. Consistent with the requirements of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), we find that the costs of expanding the audio description regulations to DMAs 101 through 210 are reasonable for program owners, providers, and distributors. No commenters oppose this action.

2. Audio description makes video programming<sup>1</sup> more accessible to individuals who are blind or visually impaired through "[t]he insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue."<sup>2</sup> To access audio description, consumers generally switch from the main program audio to the secondary audio stream on which audio description is typically provided. In 2011, pursuant to section 202 of the CVAA, the Commission adopted rules requiring certain television broadcast stations and multichannel video programming distributors (MVPDs) to provide audio description for a portion of the video programming that they offer to consumers. The current audio description rules require certain commercial television broadcast stations to provide 50 hours of audio-described programming per calendar quarter during prime time or on children's programming, as well as an additional 37.5 hours of audio-described programming per calendar quarter at any time between 6 a.m. and 11:59 p.m.<sup>3</sup> The commercial television

broadcast stations that are subject to this requirement are those that are affiliated with one of the top four commercial television broadcast networks (ABC, CBS, Fox, and NBC) and are located in the top television markets.<sup>4</sup>

3. The 2011 *Audio Description Order* applied the audio description requirements to certain television broadcast stations in DMAs 1 through 60.<sup>5</sup> Pursuant to the requirements of the CVAA, the Commission submitted a report to Congress (the Second Report) to assess, among other topics, "the potential costs to program owners, providers, and distributors in [DMAs] outside of the top 60 of creating [audio-described] programming" and "the need for additional described programming in [DMAs] outside the top 60."<sup>6</sup> The Media Bureau submitted the Second Report to Congress in October 2019, describing the consumer desire for application of the audio description rules outside the top 60 DMAs but stating that commenters did not offer "detailed or conclusive information" as to the costs of such an expansion or a station's ability to bear those costs. It thus deferred issuing a determination

otherwise associated with any television network [to] pass through audio description when the network provides audio description and the broadcast station has the technical capability necessary to pass through the audio description, unless it is using the technology used to provide audio description for another purpose related to the programming that would conflict with providing the audio description." *Id.* 79.3(b)(3). In addition, MVPD systems that serve 50,000 or more subscribers must provide 50 hours of audio description per calendar quarter during prime time or on children's programming, as well as an additional 37.5 hours of audio description per calendar quarter at any time between 6 a.m. and 11:59 p.m., on each of the top five national nonbroadcast networks that they carry on those systems. *Id.* 79.3(b)(4). The rules also require MVPD systems of any size to pass through audio description provided by a broadcast station or nonbroadcast network, if the channel on which the MVPD distributes the station or programming has the technical capability necessary to do so and if that technology is not being used for another purpose related to the programming. *Id.* 79.3(b)(5)(i)-(ii).

<sup>4</sup> *Id.* 79.3(b)(1).

<sup>5</sup> *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, 76 FR 55585, para. 16 (Sept. 8, 2011) ("The rules extend the requirement . . . to major network affiliates in the 60 largest markets beginning on July 1, 2015.") (2011 *Audio Description Order*).

<sup>6</sup> 47 U.S.C. 613(f)(4)(C)(iii)(IV), (VII). In the 2020 *Audio Description Order*, the Commission modernized the terminology in its rules by replacing the term "video description" with the "more common and widely understood" term "audio description." *Video Description: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010*, 85 FR 76480, paras. 14-15 (Nov. 30, 2020) (2020 *Audio Description Order*). When discussing items that use the prior terminology, we have updated the terminology accordingly.

<sup>1</sup> "Video programming" refers to programming provided by, or generally considered comparable to programming provided by, a television broadcast station but does not include consumer-generated media.

<sup>2</sup> 47 CFR 79.3(a)(3).

<sup>3</sup> 47 CFR 79.3(b)(1). The rules also require "[t]elevision broadcast stations that are affiliated or