

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

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. 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 record-keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. Add new temporary § 165.T11-040 is added to read as follows:

##### § 165.T11-040 Security Zone, Waters adjacent to Embarcadero Park and Campbell Shipyard, San Diego, CA.

(a) *Location.* The security zone consists of the navigable waters surrounding Embarcadero Park and Campbell Shipyard. The security zone follows along the northern portion of the designated channel in this area as to not impact traffic in the channel. The limits of the security zone are more specifically defined as the area enclosed by the following points: starting on shore at 32° 42'30" N, 117° 10'12" W; then extending southwesterly to 32° 42'34" N, 117° 10'22" W; thence southerly to 32° 42'04" N, 117° 10'08" W; then southeasterly to 32° 42'09" N, 117° 09'52" W; then south to 32° 42'04" N, 117° 09'44" W, then easterly to a point on shore at 32° 42'08" N, 117° 09'31" W. All coordinates are North American Datum 1983.

(b) *Effective period.* The zone will be in effect from 8 a.m. (PDT) on January 18, 2003 to 2 a.m. (PDT) January 27, 2003. If the need for the security zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of this security 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, or anchoring within the security zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. The San Diego Harbor Police may assist the Coast Guard in the patrol and enforcement of this security zone. Vessels requesting transit through the security zone will need to contact the Coast Guard patrol boat in the area via VHF-FM channel 16 prior to entering the zone. Upon authorization to enter the security zone, any vessel transiting through this zone is required to transit at a speed of not greater than 5 knots. All Coast Guard and Harbor Police vessels patrolling and enforcing the security zone are exempt from the 5 knot speed limit. All other general regulations of § 165.33 of this part apply in the security zone established by this temporary regulation.

Dated: January 15, 2003.

**S.P. Metruck,**

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

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#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

##### 33 CFR Part 165

[COTP San Diego 03-004]

**RIN 2115-AA97**

##### Security Zone: Waters Adjacent to National City Marine Terminal, San Diego, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone in the waters adjacent to the National City Marine Terminal, San Diego Bay, San Diego, CA. This action is needed to protect the U.S. Naval vessel(s) and their crew(s) during a military outload evolution at the National City Marine Terminal from sabotage, or other subversive acts, accidents, criminal actions or other causes of a similar

nature. Entry, transit, or anchoring in this zone is prohibited unless authorized by the Captain of the Port (COTP) San Diego, or his designated representative.

**DATES:** This rule is effective from 12 p.m. (noon) (PDT) on January 17, 2003 to 12 p.m. (noon) (PDT) on March 17, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [COTP San Diego 03-004], and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, 2716 N. Harbor Dr. San Diego CA, 92101, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Rick Sorrell, Chief of Port Operations, U.S. Coast Guard Marine Safety Office San Diego, at (619) 683-6495.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

This action is needed to protect the U.S. Naval vessel(s) and their crew(s) during a military outload evolution at the National City Marine Terminal from sabotage, or other subversive acts, accidents, criminal actions or other causes of a similar nature. This temporary security zone is necessary for protection of operations during a military outload in support of Operation Enduring Freedom in the area and for the protection of the operations from compromise and interference.

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 because it is not required in this instance. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the protection of the vessel and their crews during a military outload as well as for the public and national security.

In keeping with the requirements of 5 U.S.C. 553(d) (3), the Coast Guard also finds that good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**.

Due to complex planning, national security reasons, and coordination with all military schedules, information regarding the precise location and date of the event necessitating promulgation of this security zone and other logistical details surrounding the event were not provided until a date fewer than 30 days prior to the event. Due to the sensitive nature of the operations involved, it was

necessary for this information to be finalized at a later date.

Furthermore, in order to protect the interests of national security, the Coast Guard is promulgating this temporary regulation to provide safety and security of the U.S. Naval vessel(s) in the navigable waters of the United States. As a result, the enforcement of this security zone is a function directly involved in, and necessary to military operations. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a) (1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (d), are not required for this regulation.

### Background and Purpose

This action is needed to protect the U.S. Naval vessel(s) and their crew(s) during a military outload evolution at the National City Marine Terminal from sabotage, or other subversive acts, accidents, criminal actions or other causes of a similar nature. This temporary security zone is necessary for protection of operations during a military outload in the area and for the protection of the operations from compromise and interference.

The security zone consists of the navigable waters surrounding the National City Marine Terminal and encompassing Sweetwater Channel. The limits of this security zone are more specifically defined as the area enclosed by the following points: starting on shore at 32° 39'25" N 117° 07'15" W, then extending northerly to 32° 39'32" N 117° 07'16" W, then extending westerly to 32° 39'29" N 117° 07'36" W, then southerly to 32° 39'05" N 117° 07'34" W, and then easterly to shore at 32° 39'06" N 117° 07'14.5" W. All coordinates are North American Datum 1983.

This zone will be in effect from 12 p.m. (noon) (PDT) on January 17, 2003 to 12 p.m. (noon) (PDT) on March 17, 2003.

The security zone will be enforced by Coast Guard patrol craft and San Diego Harbor Police as enlisted by the COTP. See 33 CFR 6.04–11, Assistance of other agencies.

Persons and vessels are prohibited from entering into or transiting through this security zone unless authorized by the Captain of the Port, or his designated representative.

This security zone is established pursuant to the authority of the Magnuson Act regulations promulgated by the President under 50 U.S.C. 191, including subparts 6.01 and 6.04 of Part 6 of Title 33 of the Code of Federal Regulations. Vessels or persons violating this section are subject to he

penalties set forth in 50 U.S.C. 192 which include seizure and forfeiture of the vessel, a monetary penalty of not more than \$12,500, and imprisonment for not more than 10 years.

### 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).

Due to National Security interests, the implementation of this security zone is necessary for the protection of the United States and its people. The size of the zone is the minimum necessary to provide adequate protection for the U.S. Naval vessel(s), their crew(s), adjoining areas, and the public. Most of the entities likely to be affected are pleasure craft engaged in recreational activities and sightseeing. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting U.S. Naval vessel(s), their crew(s), and the public. Accordingly, full regulatory evaluation under paragraph 10 (e) of the regulatory policies and procedures of the DOT is unnecessary.

### 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. The Coast Guard coordinated with known private business owners in an effort to reduce any substantial impact on business.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they may better evaluate its effects on them and participate in the rulemaking process. If

your small business or organization is affected by this rule or if you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander Rick Sorrell, Chief of Port Operations, U.S. Coast Guard Marine Office San Diego at (619) 683–6495.

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 and have determined that this rule 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. 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 a security zone. A "Categorical Exclusion Determination" and checklist are 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 record-keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. Add new temporary § 165.T11-042 is added to read as follows:

### § 165.T11-042 Security Zone; National City Marine Terminal, San Diego, CA.

(a) *Location.* The security zone consists of the navigable waters surrounding the National City Marine Terminal and encompassing Sweetwater Channel. The limits of this security zone are more specifically defined as the area enclosed by the following points: starting on shore at 32°39'25" N 117°07'15" W, then extending northerly to 32°39'32" N 117°07'16" W, then extending westerly to 32°39'29" N 117°07'36" W, then southerly to 32°39'05" N 117°07'34" W, and then easterly to shore at 32°39'06" N 117°07'14.5" W. All coordinates are North American Datum 1983.

(b) *Effective dates.* This security zone will be in effect from 12 p.m. (noon) (PDT) on January 17, 2003 to 12 p.m. (noon) (PDT) on March 17, 2003.

(c) *Enforcement.* This security zone is necessary to protect a military outload evolution which directly impacts national security. If the need for the security zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of this security zone and will announce that fact via Broadcast Notice to Mariners.

(d) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into, transit through, or anchoring within the security zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. All other general regulations of § 165.33 of this part apply in the security zone established by this section.

(e) The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the San Diego Harbor Police.

Dated: January 15, 2003.

**S.P. Metruck,**

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

[FR Doc. 03-1599 Filed 1-23-03; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

**RIN 2900-AK08**

### Payment or Reimbursement for Emergency Treatment Furnished at Non-VA Facilities

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document affirms amendments to VA's medical regulations establishing provisions for payment or reimbursement for certain non-VA emergency services furnished to veterans for nonservice-connected conditions. Those amendments were made by an interim final rule and were necessary to implement provisions of "The Veterans Millennium Health Care and Benefits Act." Based on comments received from the public in response to the interim final rule, some changes are added for purposes of clarity.

**DATES:** Effective Date: March 25, 2003.

**FOR FURTHER INFORMATION CONTACT:** Roscoe Butler, Chief, Policy & Operations, Health Administration Service (10C3), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-8302. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** An interim final rule amending VA's medical regulations at 38 CFR 17.1000-1008 was published in the **Federal Register** on July 12, 2001. These amendments implemented the provisions of section 111 of Public Law 106-117, The Veterans Millennium Health Care and Benefits Act. These statutory provisions, which are set forth at 38 U.S.C. 1725, authorize VA to establish provisions regarding payment of or reimbursement for the reasonable value of non-VA emergency services provided for nonservice-connected conditions of certain veterans who have no medical insurance and no other recourse for payment.

We provided a 60-day comment period that ended September 10, 2001 for comments on the interim final rule, including comments on the information collection provisions (except for the emergency information collection approval provisions which had a deadline for comments of July 19, 2001). We received no comments as to the emergency approval. Nevertheless, we did receive comments on the interim final rule and on the information collection provisions.