

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.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, 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 final rule involves the establishment of a permanent security zone. This rule is categorically excluded from further review under, paragraph 34(g) of figure 2-1 of the Commandant Instruction. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.120 to read as follows:

#### § 165.120 Security Zone, John Joseph Moakley United States Courthouse, Boston, MA.

(a) *Location*. This security zone encompasses all U.S. navigable waters, from surface to bottom, within five hundred (500) yards of the John Joseph Moakley United States Courthouse (Moakley Courthouse) in Boston, MA, and following any natural waterside seawall configuration.

(b) *Regulations*. While this security zone is being enforced, the following regulations, along with those contained in 33 CFR 165.33, apply:

(1) No person or vessel may enter or remain in this security zone without the permission of the Captain of the Port (COTP), Sector Boston. However, the COTP hereby grants vessels permission to enter this security zone as long as such vessels proceed through the area with caution and operate at a speed no faster than that speed necessary to maintain a safe course, unless otherwise required by the Navigation Rules as published in 33 CFR part 83 and remain beyond one hundred (100) yards of the Moakley Courthouse in Boston, MA, following any natural waterside seawall configuration enclosed by a line connecting the following points:

Latitude	Longitude
42°21'15" N .....	71°02'54" W.; Bounded by the curvature of the seawall, thence to
42°21'18" N .....	71°02'43" W.; thence to
42°21'20" N .....	71°02'40" W.; Bounded by 100 yards off the curvature of the seawall, thence to
42°21'16" N .....	71°02'57" W.; thence to point of origin.

(2) Although vessels have permission to enter the five hundred (500) yards security zone under the conditions mentioned in the preceding paragraph, no person or vessel may come within one hundred (100) yards of the Moakley Courthouse under any conditions unless given express permission from the COTP or the COTP's designated representatives.

(3) Any person or vessel permitted to enter the security zone shall comply with the directions and orders of the COTP or the COTP's representatives. Upon being hailed by siren, radio, flashing lights, or other means, the operator of a vessel within the zone shall proceed as directed. Any person or vessel within the security zone shall exit the zone when directed by the COTP or the COTP's representatives.

(4) To obtain permissions required by this regulation, individuals may reach the COTP or a COTP representative via VHF channel 16 or 617-223-5757 (Sector Boston Command Center) to obtain permission.

(5) *Penalties*. Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

(c) *Effective and enforcement period*. This security zone is in effect permanently but will only be enforced when deemed necessary by the COTP. Anyone, including members of federal, state or local law enforcement agencies, may request that this security zone be enforced.

(d) *Notification*. The COTP will notify the public of the enforcement of this security zone by publishing a Notice of Enforcement (NOE) in the **Federal Register** and via the other means listed in 33 CFR 165.7. Such notifications will include the date and times of enforcement, along with any pre-determined conditions of entry.

(e) *COTP representative*. The COTP's representative may be any Coast Guard commissioned, warrant, or petty officer or any Federal, state, or local law enforcement officer who has been designated by the COTP to act on the COTP's behalf. The COTP's

representative may be on a Coast Guard vessel, a Coast Guard Auxiliary vessel, federal, state or local law enforcement or safety vessel, or a location on shore.

Dated: February 17, 2016.

**C.C. Gelzer,**

*Captain, U.S. Coast Guard, Captain of the Port Boston.*

[FR Doc. 2016-04429 Filed 2-29-16; 8:45 am]

**BILLING CODE 9110-04-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2016-0127]

**RIN 1625-AA00**

#### Safety Zone; Sunken Vessel, North Channel, Boston, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a 250 yard temporary safety zone within Sector Boston's Captain of the Port (COTP) Zone for a sunken vessel located in Boston Harbor's North Channel. The safety zone will be in effect while the sunken vessel remains on the sea floor to facilitate safe navigation, survey operations, and salvage operations. This action is necessary to ensure that vessels that transit the area are not endangered by hazards associated with a sunken vessel. Entering into, transiting through, mooring or anchoring within this safety zone is prohibited unless authorized by the COTP or the designated on-scene representative.

**DATES:** This rule is effective without actual notice from March 1, 2016 through March 31, 2016. For the purposes of enforcement, actual notice will be used from February 16, 2016 through March 1, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0127 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Mark Cutter, Coast Guard Sector Boston Waterways Management Division, U.S. Coast Guard; telephone 617-223-4000, email [Mark.E.Cutter@uscg.mil](mailto:Mark.E.Cutter@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  
USCG United States Coast Guard

##### 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 an NPRM with respect to this rule because doing so would be impracticable and

contrary to the public interest. There is insufficient time to publish an NPRM and solicit comments from the public before establishing a safety zone to address an existing hazard to navigation. The nature of the navigational hazard requires the immediate establishment of a safety zone.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with removing cargo from the vessel and refloating the vessel.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP has determined that potential hazards associated with a sunken vessel in a Federal Navigation Deep Draft Channel will be a safety concern for vessels that may transit the North Channel. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone until the exact location can be determined, and for the safety of vessels and personnel involved in survey and salvage operations. This rule will remain in effect for the time stated herein but will be cancelled if response activities are finished before March 31, 2016. The preliminary estimate for completion of the survey to determine exact location is February 17, 2016. Once the exact location is determined, the COTP will further evaluate if the channel can be opened to vessel traffic. If the sunken vessel is located outside of the North Channel, the safety may still be needed during times of salvage operations. This temporary final rule provides for an extended enforcement period in case of unforeseen circumstances that prevent the contractors from completing the work within their initial estimated timeline.

##### IV. Discussion of the Rule

The sunken vessel addressed in this rule is the tug Emily Anne. The tug Emily Anne sank at in the early morning hours of February 16, 2016 in approximate position; 42°22.4' N., 70°54.77' W. This rule establishes a safety zone until the exact position of the sunken vessel can be determined and during survey or salvage operations. The safety zone will cover all navigable waters from surface to bottom, within a 250 yard radius of position 42°22.4' N.,

70°54.77' W. This position is located by buoy 2 Boston Harbor's North Channel. The duration of the safety zone is intended to protect personnel, vessels, and the marine environment in these navigable waters until the exact position can be determined and during survey and salvage operations. If the sunken vessel is determined to be located outside the North Channel, the COTP will reopen the North Channel to vessel traffic and use the safety zone during times of survey or salvage operations if needed. The owner of the vessel is in the process of arranging salvage arrangements. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

##### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive order 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. A majority of vessel traffic will be able to transit Boston Harbor's South Channel. The larger deep draft vessels cannot transit the South Channel and they will be affected by this safety zone until an exact location of the sunken vessel can be determined. If the sunken vessel is located outside the channel, vessels will be able to transit in the channel. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about 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 contact 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

#### 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 Management Directive 023–01 and Commandant Instruction M16475.ID, 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 possibly lasting more than 31 days that will prohibit entry into the North Channel. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. In accordance with Coast Guard NEPA Implementing Procedures, while environmental impacts were considered, a written environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the **Federal Register** docket for public view.” We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0127 to read as follows:

#### § 165.T01–0127 Safety Zone: Sunken Vessel, North Channel, Boston, MA

(a) *Location.* The following area is a temporary safety zone: All U.S. navigable waters from surface to bottom, within a 250 yard radius of position 42°22.4' N., 70°54.77' W.

(b) *Regulations.* While this safety zone is being enforced, the following regulations, along with those contained in 33 CFR 165.23, apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the Captain of the Port (COTP), Sector Boston.

(2) Any person or vessel permitted to enter the safety zone shall comply with the directions and orders of the COTP or the COTP's representatives. Upon being hailed by siren, radio, flashing lights, or other means, the operator of a vessel within the zone shall proceed as directed. Any person or vessel within the security zone shall exit the zone when directed by the COTP or the COTP's representatives.

(3) To obtain permissions required by this regulation, individuals may reach the COTP or a COTP representative via VHF channel 16 or 617–223–5757 (Sector Boston Command Center) to obtain permission.

(4) *Penalties.* Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

(c) *COTP Representative.* The COTP's representative may be any Coast Guard commissioned, warrant, or petty officer or any Federal, state, or local law enforcement officer who has been designated by the COTP to act on the

COTP's behalf. The COTP's representative may be on a Coast Guard vessel, a Coast Guard Auxiliary vessel, federal, state or local law enforcement or safety vessel, or a location on shore.

(d) *Effective and enforcement period.* The safety zone described in paragraph (a) of this section will be enforced from February 16, 2016 until March 31, 2016, unless terminated sooner by the COTP.

(e) *Notification.* The Coast Guard will notify the public of the enforcement of this safety zone by Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone.

Dated: February 16, 2016.

**C.C. Gelzer,**

*Captain, U.S. Coast Guard, Captain of the Port Boston.*

[FR Doc. 2016-04475 Filed 2-29-16; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 70

RIN 2900-AO92

#### Veterans Transportation Service

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, with changes, a Department of Veterans Affairs (VA) proposed rule concerning VA's direct transportation of persons for the purposes of examination, treatment, and care. Section 202 of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012, as amended, authorized VA to carry out a program to transport any person to or from a VA facility or VA-authorized facility, for the purpose of examination, treatment, or care. VA is authorized to carry out this program until December 31, 2016. These regulations provide guidelines for veterans and the public regarding this program, hereafter referred to as the Veterans Transportation Service (VTS).

**DATES:** *Effective Date:* This rule is effective March 31, 2016.

**FOR FURTHER INFORMATION CONTACT:**

David Riley, Director, Veterans Transportation Program, Chief Business Office (10NB2G), 2957 Clairmont Rd., Atlanta, GA 30329-1647, (404) 828-5601. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** A proposed rule concerning VA's direct transportation of persons for the purposes of examination, treatment, and care was published in the **Federal Register** on May 27, 2015. 80 FR 30190. This rule set forth proposed regulations

for the VTS, a program where VA would directly transport veterans and other persons to or from VA or VA-authorized facilities for the purposes of examination, treatment, or care.

Specifically, these regulations would define eligible persons, how they may apply for transportation benefits, and how VA would provide transportation, including such limitations as would be necessary for the safe and effective operation of VTS.

VA invited interested persons to submit comments on the proposed rule on or before July 27, 2015, and we received one comment regarding inconsistent use of and reference to the term "service dog" in proposed 38 CFR 70.71(b)(2) and 70.73(a). Section 70.71 relates to eligibility for VTS, and § 70.71(b)(2) as proposed would create VTS eligibility for enrolled veterans for the purpose of retrieval of, adjustment of, or training concerning medications, prosthetic appliances, or a service dog (as defined in 38 CFR 17.148). Section 70.73 relates to arrangement of and requests for transportation under VTS, and § 70.73(a) as proposed would require an eligible person that wanted to use VTS to provide VA with certain information to include any special needs that must be accommodated to allow for transportation (e.g. wheelchair, oxygen tank, service or guide dog). Unlike § 70.71(b)(2) as proposed, § 70.73(a) as proposed did not reference § 17.148 and therefore would not be limited by the meaning of the term "service dog" as it is defined in § 17.148. As noted by the commenter, the lack of consistency in referencing § 17.148 in both §§ 70.71(b)(2) and 70.73(a) creates confusion as to whether a different meaning of the term "service dog" should be applied when determining VTS eligibility under § 70.71, versus when determining what is required to arrange or request VTS transport under § 70.73. As also noted by the commenter, a proposed revision to another VA regulation would define the term "service animal" in 38 CFR 1.218(a)(11) more broadly than the term "service dog" is defined in § 17.148. See 79 FR 69379. Since VA received this comment, § 1.218(a)(11) has been revised to include this broader definition of "service animal." See 80 FR 49157. Ultimately, the commenter asserted that § 70.71(b)(2) should be revised to refer to the broader definition of "service animal" in § 1.218(a)(11).

We agree with the commenter that if a person is eligible for VTS and traveling with a service animal, then the broader definition of "service animal" in § 1.218(a)(11) should be used in VTS regulations. As noted by the commenter,

if the broader definition of "service animal" in § 1.218(a)(11) was not used in VTS regulations, then VA may create conflicting situations where a person would be permitted to bring a "service animal" as defined in § 1.218(a)(11) into a VA facility, but would not be able to use VTS to be transported with such an animal to or from a VA facility. We therefore revise § 70.73(a) to add a reference to § 1.218(a)(11). This revision to § 70.73(a) addresses the commenter's concern that VA's definition of "service animal" in § 1.218(a)(11) should be applied consistently in the context of service animal access, whether the issue is a veteran getting into a VA facility with their service animal, or a veteran getting to the entrance of that VA facility with their service animal via VA transportation.

We do not, however, adopt the commenter's suggestion to revise § 70.71(b)(2) to reference "service animal" as defined in § 1.218(a)(11). As stated earlier in this final rule, § 70.71(b)(2) as proposed would create VTS eligibility for, among other things, transportation related to training a "service dog" that is recognized under § 17.148. If we revised § 70.71(b)(2) to replace the reference to "service dog" in § 17.148 with a reference to "service animal" in § 1.218(a)(11), we would instead create VTS eligibility for transportation related to training a "service animal" that is recognized under § 1.218(a)(11). However, this would conflict with VA's service dog benefits standards in § 17.148, because § 17.148(c) has specific training requirements that are not present in § 1.218(a)(11). The commenter's suggested revision to § 70.71(b)(2) would create scenarios where VA could provide VTS transport to support the non-specific training of a "service animal" that is recognized under § 1.218(a)(11), although VA could not recognize that training under § 17.148(c) for the purposes of providing service dog benefits. Such a practice could be interpreted as VA supporting non-specific training that is not recognized under § 17.148(c), and would erode VA's training requirements in § 17.148(c). To avoid this conflict between VA standards related to service animal access in § 1.218(a)(11) and VA standards related to service dog benefits in § 17.148, we do not make the revision to § 70.71(b)(2) as suggested by the commenter.

We additionally clarify that VTS travel to receive training with approved service dogs under § 17.148 would only be approved travel under § 70.72(d). The types of authorized transportation under § 70.72(a)–(c) must be to or from VA or