

## Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

## Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under Figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

## Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of \$100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected.

No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of \$100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

## List of Subjects in 33 CFR Part 165

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

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

### PART 165—[AMENDED]

1. The authority citation for Part 165 reads as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.401-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T17-010 is added to read as follows:

#### § 165.T17-010 Safety Zone; U. S. Marine Corps Water Jump, Resurrection Bay, Seward, Alaska

(a) *Description.* The following area is a Safety Zone: All navigable waters within a 1100 yard radius around a point located at 60°02'28.7"N latitude,

149°23'02.8"W longitude in Resurrection Bay, Seward, AK.

(b) *Effective Dates.* This proposed regulation is effective at 12:30 p.m. on July 20, 2000, and terminates at 16:30 p.m. on July 20, 2000.

(c) *Regulations.* (1) The Captain of the Port means the Captain of the Port, Western Alaska. The Captain of the Port may authorize or designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf.

(2) The general regulations governing safety zones contained in 33 CFR 165.23 apply. No person or vessel may enter, transit through, anchor or remain in this safety zone, with the exception of attending vessels, without first obtaining permission from the Captain of the Port, Western Alaska, or his on scene representative.

The U. S. Coast Guard Cutter *Mustang* will be enforcing the safety zone and can be reached on marine VHF channel 16. The Captain of the Port's representative can also be contacted by telephone at (907) 271-6700.

Dated: June 27, 2000

**W.J. Hutmacher,**

*Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.*

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**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-00-187]

RIN 2115-AA97

#### Safety Zone: Oil Spill Cleanup Zone, Middletown, Rhode Island

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone in the waters of Narragansett Bay shoreward of the area marked by a high flyer (flagged metal pole) at the westernmost end of Midway Pier in Portsmouth; southwest to a high flyer 250 yards west of McAllister Point; south to a high flyer at the first bend in the Coddington Cove Breakwater. The safety zone is needed to safeguard the public and pollution response personnel during oil cleanup operations. Entry into this zone is prohibited unless authorized by the Captain of the Port, Providence, Rhode Island.

**EFFECTIVE DATES:** This rule is effective from 3 p.m., Wednesday July 12, 2000, until 6 p.m. on Monday July 31, 2000.

**ADDRESSES:** You may mail comments and related material to Marine Safety Office Providence, 20 Risho Avenue, East Providence, Rhode Island 02914. The Prevention Department maintains the public docket for this rulemaking.

Comments and related material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Providence between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

LCDR James McLaughlin at Marine Safety Office Providence, (401) 435-2300.

#### SUPPLEMENTARY INFORMATION

##### Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. This temporary final rule establishes a safety zone around the cleanup operations being conducted after the spill of No. 6 oil from the barge Penn 460. The safety zone is needed to safeguard the public, and cleanup personnel, from the hazards associated with cleanup vessels and beach response personnel operating in the area. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close portions of Narragansett Bay to protect the public and response personnel.

##### Background and Purpose

Barge Penn 460 experienced an oil spill of approximately 14,000 gallons of No. 6 oil on July 5, 2000. Due to heavy recreational traffic in vicinity of the spill, a safety zone is needed to ensure the safety of recreational traffic and response vessels and personnel. The exclusion of recreational traffic will minimize the risk of wake damage to response vessels and personnel, and will eliminate the risk of collision. Entry into this safety zone is prohibited unless authorized by the Captain of the Port (COTP), Providence, RI. A safety zone [CGD01-00-250] was previously established on Friday July 7, 2000, for this same event. This previous safety zone prohibited entry into the waters of Narragansett Bay within 500 yards of the shoreline from the base of the Coddington Cove, Middletown, Rhode Island, breakwater to the waterside end of the pier located 2,500 yards Northeast of Coddington Cove. However, the

Rhode Island Department of Health and Department of Environmental Management reopened a significant portion of the area to commercial fishing at 12:00 p.m. on July 12, 2000. This new safety zone prohibits entry into the area which remains closed to commercial fishing.

### Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 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). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This safety zone prevents traffic from transiting in the immediate area of cleanup operations. This regulation will not be significant as all vessel traffic may safely pass around this safety zone, no commercial entities are located within the zone, a State of Rhode Island fisheries closure is in effect in this zone, and extensive maritime advisories will be made.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

### 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. 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 contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### Federalism

We have analyzed this action under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

### Taking of Private Property

This temporary rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This temporary rule meets applicable standards in section 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this temporary rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that, under Figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental

documentation. A "Categorical Exclusion Determination" will be 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), Reports and recordkeeping requirements, Security measures, Waterways.

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

### PART 165—[AMENDED]

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. Section 165.100 is also issued under the authority of Sec. 311, Pub. L. 105-383.

2. Add temporary § 165.T01-187 to read as follows:

#### § 165.T01-187 Safety Zone: Oil Spill Cleanup Zone, Middletown, Rhode Island.

(a) *Location.* All waters in Narragansett Bay shoreward of the area marked by a high flyer (flagged metal pole) at the westernmost end of Midway Pier in Portsmouth, RI; southwest to a high flyer 250 yards west of McAllister Point; south to a high flyer at the first bend in the Coddington Cove.

(b) *Effective Period.* This section is effective from 3 p.m. on Wednesday July 12, 2000, until 6 p.m. on Monday July 31, 2000.

(c) *Regulations.* (1) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene U.S. Coast Guard patrol personnel. The personnel comprise commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: July 12, 2000.

**Peter A. Popko,**

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

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**BILLING CODE 4910-15-P**