

does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have considered the environmental impact of this proposed 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 where indicated under **ADDRESSES**.

### List of Subjects

#### 33 CFR Part 110

Anchorage grounds.

#### 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 parts 110 and 165 as follows:

### PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. From 6 a.m. April 19, 2002, until 4 p.m. October 19, 2002, in § 110.235 add a new paragraph (c) to read as follows:

#### § 110.235 Pacific Ocean (Mamala Bay), Honolulu Harbor, Hawaii (Datum: NAD 83).

\* \* \* \* \*

(c) Before entering in the anchorage grounds in this section you must first obtain permission from the Captain of the Port Honolulu.

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

3. 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.

4. A new § 165.T14-069 is temporarily added to read as follows:

#### § 165.T14-069 Security Zones; Oahu, Maui, Hawaii, and Kauai, HI.

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

(1) All waters of Honolulu Harbor and entrance channel, Keehi Lagoon, and General Anchorages A, B, C, and D as defined in 33 CFR 110.235 that are shoreward of the following coordinates:

The shoreline at 21°17.68' N, 157°52.0' W; thence due south to 21°16.0' N, 157°52.0' W, thence due west to 21°16.0' N, 157°55.58' W, thence due north to Honolulu International Airport Reef Runway at 21°18.25' N, 157°55.58' W.

(2) The waters around the Tesoro Single Point Mooring extending 1,000 yards in all directions from position 21°16.2' N, 158°05.3' W.

(3) The waters extending 1,000 yards in all directions around vessels moored at the Chevron Conventional Buoy Mooring at approximate position 21°16.7' N, 158°04.2' W.

(4) The Kahului Harbor and Entrance Channel, Maui, HI consisting of all waters shoreward of the COLREGS DEMARCATION line. (See 33 CFR 80.1460).

(5) All waters within the Nawiliwili Harbor, Kauai, HI shoreward of the COLREGS DEMARCATION line (See 33 CFR 80.1450).

(6) All waters of Port Allen Harbor, Kauai, HI shoreward of the COLREGS DEMARCATION line (See 33 CFR 80.1440).

(7) Hilo Harbor and Entrance Channel, Hawaii, HI consisting of all waters shoreward of the COLREGS DEMARCATION line (See 33 CFR 80.1480).

(8) The waters extending out 500 yards in all directions from cruise ship vessels anchored within 3 miles of:

(i) Lahaina Small Boat Harbor, Maui, between Makila Point and Puunoa Point.

(ii) Kailua-Kona Small Boat Harbor, Hawaii, between Keahulolu Point and Puapuaa Point.

(9) All waters contained within the Barbers Point Harbor, Oahu, enclosed by a line drawn between Harbor Entrance Channel Light 6 and the jetty point day beacon at 21°19.5 N, 158°07.3 W.

(b) *Designated representative.* A designated representative of the Captain of the Port is any Coast Guard commissioned officer, warrant or petty officer that has been authorized by the Captain of the Port Honolulu to act on his behalf. The following officers have or will be designated by the Captain of the Port Honolulu: The senior Coast Guard boarding officer on each vessel enforcing the security zone.

(c) *Regulations.* (1) In accordance with § 165.33, entry into these zones is prohibited unless authorized by the Coast Guard Captain of the Port, Honolulu or his designated representatives. Section 165.33 also contains other general requirements.

(2) The existence or status of the temporary security zones in this section will be announced periodically by Broadcast Notice to Mariners.

(3) Persons desiring to transit the areas of the security zones may contact the Captain of the Port at command center telephone number (808) 541-2477 or on VHF channel 16 (156.8 Mhz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his designated representatives.

(d) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section is 33 U.S.C. 1226; 49 CFR 1.46.

(e) *Effective dates.* This section is effective from 6 a.m. HST April 19, 2002, until 4 p.m. HST October 19, 2002.

Dated: March 12, 2002.

**T.L. Rice,**

*Captain, U.S. Coast Guard, Commander, Fourteenth Coast Guard District, Acting.*

[FR Doc. 02-6733 Filed 3-15-02; 4:10 pm]

**BILLING CODE 4910-15-U**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[PAC AREA-02-001]

RIN 2115-AG23

### Protection of Naval Vessels

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes 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:** Comments and related material must reach the Coast Guard on or before May 6, 2002.

**ADDRESSES:** You may mail comments and related material to Commander (Pmt), Coast Guard Pacific Area, Coast Guard Island, Bldg. 50-6, Alameda, CA 94501-5100. Commander (Pmt) maintains the public docket for this rulemaking. 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 [PAC AREA 02-001] and are available for inspection or copying at Commander (Pmt), at the address listed above between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander Steve Danscuk,



Commander (Pmt), Coast Guard Island, Bldg. 50–6, Alameda, CA 94501–5100; telephone number (510) 437–2943.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [PAC AREA 02–001], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (Pmt), Coast Guard Pacific Area, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### 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. On September 21, 2001, the Coast Guard published temporary final rules entitled “Protection of Naval Vessels” in the **Federal Register** (66 FR 48779). Prior to issuing this temporary final rule, no regulation existed implementing 14 U.S.C. 91. The temporary final rule is in effect until June 15, 2002. No public hearing has been requested, and none has been held.

On February 21, 2002, Commander (Amr), Coast Guard Atlantic Area published a Notice of Proposed Rulemaking in the **Federal Register** (67 FR 7992) proposing to establish a permanent Subpart G to 33 CFR part 165 and setting out general provisions pertaining to that subpart. The general provisions of proposed Subpart G are discussed in the preamble to the Atlantic Area proposed rule and would apply to Pacific Area NVPZs. Our proposed rule would only add a new

§ 165.2030 to parallel Atlantic Area’s proposed § 165.2025.

We have determined that a continuing need exists for the protection of naval vessels. Therefore, we are proposing a permanent rule that will replace the temporary rule by June 15, 2002. Based on our experience with the temporary final rule, we have made some changes that are detailed at length in the “Discussion” section of this preamble.

##### Discussion of Proposed Rule

This proposed rule, for safety and security concerns, controls vessel movement in a regulated area surrounding many U.S. naval vessels. All vessels within 500 yards of such a U.S. naval vessel shall operate at the minimum speed necessary to maintain a safe course, unless required by the Navigation Rules to maintain speed, and shall always proceed as directed by the Coast Guard, the senior naval officer present in command, or the official patrol. No vessel or person is allowed within 100 yards of a U.S. naval vessel greater than 100 feet in length unless authorized by the Coast Guard, the senior naval officer present in command, or the official patrol.

Only larger U.S. naval vessels are surrounded by a naval vessel protection zone to minimize this rule’s effect on the public. Only U.S. naval vessels over 100 feet in length overall would be “large U.S. naval vessels.”

The proposed rule contains several additional provisions to limit public impact. Vessels that need to pass within 100 yards of a large U.S. naval vessel may contact the Coast Guard, the senior naval officer present in command, or the official patrol on VHF–FM channel 16 to obtain the necessary permission.

Additionally, the Coast Guard, senior naval officer present in command, or the official patrol should 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.

Similarly, commercial vessels anchored in a designated anchorage area should be permitted to remain at anchor within 100 yards of a passing large U.S. naval vessel when consistent with security requirements. As illustrated by the attack on the U.S.S. Cole, all vessels are potentially a security threat; therefore, vessels may, at times, be required to move. From a pure security perspective, all anchored vessels should be required to move. We believe, however, that security must be balanced with the burden on mariners and encourage enforcement officials to limit

the impact on larger vessels, which are the most expensive and difficult to move.

In the proposed rule, we added language to address the situation where a naval vessel protection zone around a moored or anchored U.S. naval vessel effectively shuts down a narrow waterway. This situation could arise when a U.S. naval vessel makes a temporary port visit away from its normal homeport. In this situation, the Coast Guard, senior naval officer present in command, or the official patrol should permit transiting vessels to pass within 100 yards of the moored U.S. naval vessel with the minimal delay consistent with security requirements. This proposed rule does not intend to block narrow waterways from public use for extended periods of time. Mariners should anticipate some delay due to security needs. However, by including this new language in the regulation text, we want to make it clear that the Coast Guard, senior naval officer present in command, or the official patrol should, when appropriate, allow transiting vessels within the 100-yard exclusionary zone as needed to safely pass through a navigable channel or waterway. While maintaining security is paramount, avoiding extended delays in normal traffic is also very important.

We also added language that the Coast Guard, senior naval officer present in command, or the official patrol should give advance notice on VHF–FM channel 16 of all movements by large U.S. naval vessels once security concerns permit publicizing the movement. The goal is to give as much advance notice as possible. In most cases, however, this notice will probably be no more than an hour or two. These notifications should, to some extent, help mariners adjust their navigation plans accordingly or obtain early permission to enter into a naval vessel protection zone.

Violations of these regulations are punishable as a class D felony (imprisonment for not more than 6 years and a fine of not more than \$250,000), a civil penalty, and may result in rem liability against the vessel.

##### Regulatory Evaluation

This proposed 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).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this proposed regulation restricts access to the regulated area, the effect of this proposed 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 effect 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. Further, the Coast Guard received no comments related to economic impact following implementation of the temporary final rule.

#### **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 proposed 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 proposed 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. Further, the Coast Guard received no comments related to small entity impact following implementation of the temporary final rule.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### **Assistance for Small Entities**

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 proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. 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*.

#### **Collection of Information**

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### **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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the *Federal Register* (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

#### **Energy Effects**

We have analyzed this proposed 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 proposed 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 where



indicated under **ADDRESSES**. Further, the Coast Guard received no comments related to environmental impact following implementation of the temporary final rule.

#### 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 proposes to amend 33 CFR part 165 as follows:

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

#### SUBPART G—PROTECTION OF NAVAL VESSELS

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

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

2. Add § 165.2030 to read as follows:

#### § 165.2030 Pacific 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 Pacific Area, which includes the Eleventh, Thirteenth, Fourteenth, and Seventeenth U.S. Coast Guard Districts.

**Note to paragraph (a):** The boundaries of the U.S. Coast Guard Pacific Area and the Eleventh, Thirteenth, Fourteenth, and Seventeenth 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 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: March 12, 2002.

**E.R. Riutta,**

*Vice Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.*

[FR Doc. 02-6766 Filed 3-19-02; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-02-006]

RIN 2115-AA97

#### Safety Zone; Mystic Places Offshore Grand Prix, New London, CT

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a temporary safety zone for the Mystic Places Offshore Grand Prix, off Ocean Beach, New London, CT. This action is necessary to provide for the safety of life on navigable waters during this May 3-to-5, 2002 event. This action is intended to restrict vessel traffic in a portion of Long Island Sound in the vicinity of Ocean Beach, New London, CT.

**DATES:** Comments and related material must reach the Coast Guard on or before April 19, 2002.

**ADDRESSES:** You may mail comments and related material to Marine Events, Coast Guard Group/Marine Safety Office Long Island Sound, Command Center, 120 Woodward Ave., New Haven, CT 06512. Coast Guard Group/Marine Safety Office Long Island Sound maintains the public docket for this rulemaking. Comments and 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 Group/MSO Long Island Sound, New Haven, CT, between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Boatswain's Mate Second Class (BM2) Ryan Peebles, Group Operations Petty Officer, Coast Guard Group/MSO Long Island Sound (203) 468-4408.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-02-006), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for a meeting by writing to Coast Guard Group/MSO Long Island Sound at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### Background and Purpose

The Coast Guard proposes to establish a temporary safety zone for the Mystic Places Offshore Grand Prix off Ocean Beach in Long Island Sound. The proposed safety zone prevents vessels from transiting a portion of Long Island