

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 State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Although this 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 rule will not affect 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 safety that may disproportionately affect children.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this rule.

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 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 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.

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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T07–093 is added to read as follows:

§ 165.T07–093 Safety Zone St. Johns River, Jacksonville, FL

(a) *Regulated area.* The safety zone will originate at position 30°14′37″N, 081°39′45″W, and extend east to 30°14′37″N, 081°38′00″W, then south to 30°13′41″N, 081°38′00″W, then west to 30°13′41″N, 081°39′48″W, then back to the original point.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Jacksonville, FL.

(c) *Dates.* This rule is effective from October 28, 2004, through October 31, 2004, and will be enforced from noon to 4:00 p.m. for each day it is in effect.

Dated: August 26, 2004.

David L. Lersch,

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

[FR Doc. 04–22509 Filed 10–5–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 04–024]

RIN 1625–AA00

Safety Zone; San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final rule.

SUMMARY: The Coast Guard is establishing a temporary fixed safety zone within the navigable waters of San Francisco Bay, CA, for a three-day minesweeping exercise called operation “Lead Shield.” During the exercise, mine-hunting vessels will practice locating 6 dummy mine-shapes (non-explosive training devices) positioned in the vicinity of Anchorage 8. The purpose of the safety zone is to provide for the safety of mariners in the vicinity as well as those involved in the exercise by allowing only those directly involved in the exercise to enter into, transit through, or anchor within the exercise area.

DATES: This rule is effective from 5 a.m. on October 5, 2004 to 8 p.m. on October 7, 2004.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of the docket [COTP San Francisco Bay 04–024] and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Doug L. Ebberts, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–2770.

SUPPLEMENTARY INFORMATION:

Regulatory Information

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. Due to the complex coordination involved in planning the event, major planning components of the mine-hunting

exercise were only recently completed, and the logistical details surrounding the location and schedule were not finalized and presented to the Coast Guard in time to draft and publish an NPRM. As such the exercise would occur before the rulemaking process was complete. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to temporarily close the area in order to protect the maritime public from the hazards associated with the mine-hunting exercise.

For the same reasons stated above, 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**.

Background and Purpose

As part of the Navy's efforts to develop and maintain proficiency in anti-terrorism and force protection, Operation "Lead Shield" provides an important training opportunity for several naval vessels to hone their mine-hunting skills. The Operation involves the placement of 6 dummy mine-shapes within Anchorage 8 and the dredged channel immediately south of Anchorage 8 in San Francisco Bay. This safety zone is necessary to provide for the safety of mariners in the vicinity as well as those involved in the exercise by allowing only those directly involved in the exercise to enter into, transit through, or anchor within the exercise area while mine-hunting operations are being conducted.

Discussion of Rule

The following area will constitute a temporary safety zone: All navigable waters of Anchorage 8 and all navigable waters of the channel located between Anchorage 8 and Anchorage 9 as bounded by the following positions: 37°46'40" N, 122°21'23" W; thence to 37°46'28" N, 122°21'17" W; thence to 37°46'22" N, 122°19'07" W; thence to 37°46'05" N, 122°18'31" W; thence to 37°46'18" N, 122°17'55" W; thence to 37°46'32" N, 122°17'59" W; thence returning to the point of origin. Entry into, transit through or anchoring within the safety zone is prohibited, unless authorized by the Captain of the Port, or his designated representative.

U.S. Coast Guard personnel will enforce this safety zone. Other Federal, State, or local law enforcement agencies may assist the Coast Guard, including the Coast Guard Auxiliary. Section 165.23 of Title 33, Code of Federal Regulations, prohibits any unauthorized person or vessel from entering or remaining in a safety zone. Vessels or

persons violating this section may be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed \$32,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment from 5 to 10 years and a maximum fine of \$250,000) and in rem liability against the offending vessel. Any person who violates this section using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation also faces imprisonment from 10 to 25 years. Vessels or persons violating this section may also be subject to the penalties set forth in 50 U.S.C. 192: Seizure and forfeiture of the vessel to the United States, a maximum criminal fine of \$10,000, and imprisonment up to 10 years, and a maximum civil penalty of \$25,000 for each day of a continuing violation.

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 Homeland Security (DHS).

Although this safety zone will restrict boating traffic within the vicinity of Anchorage 8 in San Francisco Bay, the effect of this regulation will not be significant for several reasons: vessel traffic can pass safely around the area, vessels engaged in recreational activities and sightseeing have ample space outside of the safety zone to engage in these activities, and this zone will encompass only a small portion of the waterway for a limited period of time. The entities most likely to be affected are pleasure craft engaged in recreational activities and sightseeing.

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.

For the same reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. § 605(b) that this rule is not expected to have a significant economic impact on any substantial number of entities, regardless of their size.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions, options for compliance, or assistance in understanding this rule, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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 new collection of information requirements 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 under that Order and have determined that it 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

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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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an

explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a safety zone.

A final "Environmental Analysis Checklist" and a final "Categorical Exclusion Determination" will be available for review in the docket indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–042 to read as follows:

§ 165.T11–042 Safety Zone: San Francisco Bay, CA.

(a) *Location.* The following area is designated as a safety zone: All of Anchorage 8 as described in 33 CFR § 110.224(e)(5) as well as the channel between Anchorage 8 and Anchorage 9 as bounded by the following positions: 37°46'40"N, 122°21'23"W; thence to

37°46'28"N, 122°21'17"W; thence to 37°46'22"N, 122°19'07"W; thence to 37°46'05"N, 122°18'31"W; thence to 37°46'18"N, 122°17'55"W; thence to 37°46'32"N, 122°17'59"W; thence returning to the point of origin. [NAD 83]

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited unless authorized by the Captain of the Port or his designated representative.

(2) Persons desiring to transit the area of the safety zone may contact the Captain of the Port at telephone number 415–399–3547 or on VHF–FM channel 16 (156.8 Mhz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

(c) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Patrol personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel must proceed as directed.

(d) *Effective Dates.* This safety zone will be in effect from 5 a.m. on October 5, 2004 to 8 p.m. on October 7, 2004. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of the safety zone and will announce that fact via Broadcast Notice to Mariners.

Dated: September 27, 2004.

Gordon A. Loebel,

Commander, U.S. Coast Guard, Acting Captain of the Port, San Francisco Bay, California.

[FR Doc. 04–22511 Filed 10–5–04; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Docket No. 2004–T–046]

RIN 0651–AB82

Waiver of Pixel Requirement for Drawings Filed Electronically

AGENCY: Patent and Trademark Office, Commerce.