

create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations attempting to resolve questions of accuracy, etc.

(4) From subsections (d)(3) and (4) because these subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

(5) From subsection (e)(1) because:

(i) It is not possible in all instances to determine relevancy or necessity of specific information in the early stages of a personnel-related action.

(ii) Relevance and necessity are questions of judgment and timing; what appears relevant and necessary when collected ultimately may be deemed unnecessary. It is only after the information is assessed that its relevancy and necessity in a specific investigative activity can be established.

(iii) ATF might obtain information concerning violations of law not under its jurisdiction, but in the interest of effective law enforcement, dissemination will be made to the agency charged with enforcing such law.

(iv) In interviewing individuals or obtaining other forms of evidence during an investigation, information could be obtained, the nature of which would leave in doubt its relevancy and necessity. Such information, however, could be relevant to another investigation or to an investigative activity under the jurisdiction of another agency.

(6) From subsection (e)(4)(I) because the categories of sources of the records in these systems have been published in the **Federal Register** in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in these systems, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal and other law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(g) The following systems of records are exempt from 5 U.S.C. 552a(c)(3), (d)(1), (2), (3) and (4), (e)(1), (e)(4)(G), (H) and (I), and (f).

(1) Regulatory Enforcement Record System (JUSTICE/ATF-008).

(2) Technical and Scientific Services Record System (JUSTICE/ATF-009).

(3) These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2). Where

compliance would not appear to interfere with or adversely affect the overall law enforcement process, ATF may waive the applicable exemption.

(h) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because making available to a record subject the accounting of disclosures from records concerning him/her would reveal investigative interest, whether civil, criminal or regulatory, not only of ATF, but also of the recipient agency. This would permit the record subject to take measures to impede the investigation, e.g., destroy evidence, intimidate potential witnesses or flee the area to avoid the thrust of the investigation thus seriously hampering the regulatory and law enforcement functions of ATF.

(2) From subsections (d)(1), (e)(4)(G) and (H), and (f) because these provisions concern individual access to investigative and compliance records, disclosure of which could compromise sensitive information, interfere with the overall law enforcement and regulatory process by revealing a pending sensitive investigation, possibly identify a confidential source or disclose information, including actual or potential tax information, which would constitute an unwarranted invasion of another individual's personal privacy, reveal a sensitive investigative technique, or constitute a potential danger to the health or safety of law enforcement personnel.

(3) From subsection (d)(2) because, due to the nature of the information collected and the essential length of time it is maintained, to require ATF to amend information thought to be incorrect, irrelevant or untimely, would create an impossible administrative and investigative burden by forcing the agency to continuously retrograde its investigations and compliance actions attempting to resolve questions of accuracy, etc.

(4) From subsections (d)(3) and (4) because these subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

(5) From subsection (e)(1) because:

(i) It is not possible in all instances to determine relevancy or necessity of specific information in the early stages of a criminal, civil, regulatory, or other investigation.

(ii) Relevance and necessity are questions of judgment and timing; what appears relevant and necessary when collected ultimately may be deemed unnecessary. It is only after the information is assessed that its relevancy and necessity in a specific

investigative or regulatory activity can be established.

(iii) In any investigation or compliance action ATF might obtain information concerning violations of law not under its jurisdiction, but in the interest of effective law enforcement, dissemination will be made to the agency charged with enforcing such law.

(iv) In interviewing individuals or obtaining other forms of evidence during an investigation, information could be obtained, the nature of which would leave in doubt its relevancy and necessity. Such information, however, could be relevant to another investigation or compliance action or to an investigative activity under the jurisdiction of another agency.

(6) From subsection (e)(4)(I) because the categories of sources of the records in these systems have been published in the **Federal Register** in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in these systems, exemption from this provision is necessary in order to protect the confidentiality of the sources of criminal, regulatory, and other law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

Dated: January 17, 2003.

**Paul R. Corts,**

*Assistant Attorney General for Administration.*

[FR Doc. 03-1575 Filed 1-23-03; 8:45 am]

BILLING CODE 4410-FB-P

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP San Diego 03-005]

RIN 2115-AA97

#### Safety Zone: San Diego Bay, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of San Diego Bay in support of the Gatorade January 24th Fireworks Show. This temporary safety zone is necessary to provide for the safety of the crews, spectators, participants of the event, participating vessels, other vessels, and users of the

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

**DATES:** This rule is effective from 8:45 p.m. to 9:45 p.m. (PST) on January 24, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP San Diego 03-005] and are available for inspection or copying at Marine Safety Office San Diego, 2716 North Harbor Drive, San Diego, CA 92101-1064 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Austin Murai, USCG, c/o U.S. Coast Guard Captain of the Port, telephone (619) 683-6495.

**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. Final approval and permitting of this event were not issued in time to engage in full notice and comment rulemaking. Publishing a NPRM and delaying the effective date would be contrary to the public interest since the event would occur before the rulemaking process was complete.

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**. In addition to the reasons stated above, it would be contrary to the public interest not to publish this rule because the event has been permitted and participants and the public require protection.

**Background and Purpose**

Gatorade is sponsoring a fireworks show in San Diego Bay, CA on January 24, 2003. The fireworks show will be part of the weeklong Super Bowl XXXVII event known locally as the NFL Experience. The fireworks event involves one (1) barge, to be used as a platform for the launching of fireworks. This barge will be loaded with fireworks and thus contain a large amount of explosives. In order to establish a buffer around this hazardous situation, this rule will establish a safety zone around the barge. This temporary safety zone is necessary to provide for the safety of the crews, spectators, and participants of the Gatorade January 24th Fireworks Show. The proposed temporary safety

zones are also necessary to protect other vessels and users of the waterway.

**Discussion of Rule**

This safety zone is necessary for the Gatorade January 24th Fireworks Show, which will take place on January 24, 2003 starting at 8:45 p.m. (PST) and ending at 9:45 p.m. (PST). The event involves one (1) barge, to be used as a platform for the launching of fireworks.

The temporary safety zone includes the area 120 yards around the fireworks barge anchored off of Southwest Marine Shipyard. The exact coordinates can be found in the regulatory text. This temporary zone will establish a safety buffer around the fireworks barge, which is necessary to provide for the safety of all involved in the event and other users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within these safety zones unless authorized by the Captain of the Port, or his designated representative.

**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).

**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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed safety zone would not have a significant economic impact on a substantial number of small entities because this zone is limited in scope and duration (in effect for only one (1) hour on January 24, 2003). Vessel traffic will still be able to pass around the zone. The Coast Guard will also issue broadcast notice to mariner alerts via VHF-FM marine channel 16 before the safety zone is enforced.

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 Petty Officer Austin Murai, Marine Safety Office San Diego at (619) 683-6495.

**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 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

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.

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 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 because we are establishing a safety zone. A "Categorical Exclusion Determination"

is available in the docket where indicated under **ADDRESSES**.

### 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 is amending 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, 160.5; 49 CFR 1.46.

2. Add new § 165.T11-043 to read as follows:

#### § 165.T11-043 Safety Zone; San Diego Bay, CA.

(a) *Location.* The temporary safety zone includes the area extending 120 yards around a point at 32° 41'08"N, 117° 08'51"W. All coordinates are North American Datum 1983.

(b) *Effective period.* This section will be enforced from 8:45 p.m. (PST) to 9:45 p.m. (PST) on January 24, 2003. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this safety zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander. The Patrol Commander may be contacted via VHF-FM Channel 16.

Dated: January 15, 2003.

#### S.P. Metruck,

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

[FR Doc. 03-1597 Filed 1-23-03; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP San Diego 03-002]

RIN 2115-AA97

#### Security Zone; Waters Adjacent to Embarcadero Park and Campbell Shipyard, 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 Embarcadero Park and Campbell Shipyard, San Diego Bay, San Diego, CA. This temporary security zone is necessary to ensure the safety of the participants, spectators and users of the waterway during the National Football League Super Bowl XXXVII NFL Experience event. Persons and vessels are prohibited from entering into, transiting through, or anchoring within the security zone unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from 8 a.m. (PDT) on January 18, 2003 to 2 a.m. (PDT) January 27, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket COTP San Diego 03-002 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, CA, 2716 N. Harbor Drive, San Diego, CA 92101, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer First Class Jeff Brown, Marine Safety Office San Diego, at (619) 683-6495.

#### 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 planning for this event many details were not finalized in time to publish a notice of proposed rulemaking. Publishing a NPRM and delaying the effective date would be contrary to the public interest since the event would occur before the rulemaking process was complete.

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**. In addition to the reasons