

**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, 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 temporary § 165.T05–037 to read as follows:

**§ 165.T05–037 Safety zone; Fireworks Display, Patuxent River, Calvert County, MD.**

(a) *Location.* The following area is a safety zone: All waters of the Patuxent River near Solomons, in Calvert County, Maryland, surface to bottom, within a radius of 400 yards around a fireworks barge which will be located at position latitude 38° 19' 03.0" N, longitude 076° 26' 07.6" W. All coordinates reference Datum NAD 1983.

(b) *Definition.* As used in this section the *designated representative* means the Commander, Coast Guard Sector Baltimore or any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulations.* The general regulations governing safety zones, found in Sec. 165.23, apply to the safety zone described in paragraph (a) of this section.

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Captain of the Port, Baltimore, Maryland or his designated representative.

(2) Persons or vessels requiring entry into or passage within the zone must request authorization from the Captain of the Port or his designated representative by telephone at (410) 576–2693 or by marine band radio on VHF channel 16 (156.8 MHz).

(3) All Coast Guard vessels enforcing this safety zone can be contacted on marine band radio VHF channel 16 (156.8 MHz).

(4) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer

on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(d) *Enforcement period.* This section will be enforced from 7:30 p.m. to 10 p.m. on July 4, 2007, or if necessary due to inclement weather, from 7:30 p.m. to 10 p.m. on July 5, 2007 instead.

Dated: May 15, 2007.

**Brian D. Kelley,**

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

[FR Doc. E7–10447 Filed 5–30–07; 8:45 am]

**BILLING CODE 4910–15–P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

**[COTP San Francisco Bay 07–019]**

**RIN 1625–AA00**

**Safety Zones; Whales Transiting the San Francisco Bay and Delta Region, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary, moving safety zones on the navigable waters of the San Francisco Bay and Delta Region to contribute to the safety of the boating public where whales have been sighted swimming up river from the San Francisco Bay. These safety zones are established to ensure the safety of persons and vessels from hazards, injury, and damage associated with higher-than-normal levels of recreational boating traffic on the water as individuals attempt to view the whales. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zones without permission of the Captain of the Port or his designated representative.

**DATES:** This rule is effective from 12:01 a.m. May 17, 2007, until 11:59 p.m. June 5, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of the docket COTP San Francisco Bay 07–019 and are available for inspection or copying at Coast Guard Sector San Francisco, 1 Yerba Buena Island, San Francisco, California, 94130, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 556–2950 extension 136.

**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. The Coast Guard only recently learned of whales transiting the bay, river and delta region. Any delay in implementing this rule would have been impracticable and contrary to the public interest since immediate action was necessary to protect the public from hazards associated with the transiting whales.

For the same reasons listed in the previous paragraph, 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**. Any delay in the effective date of this rule would expose mariners to the dangers posed by the whales.

**Background and Purpose**

On May 14, 2007 the presence of possibly four and at least two whales swimming northerly in the Sacramento River was reported to the Coast Guard. The presence of these whales was confirmed by the Coast Guard and the National Oceanic and Atmospheric Administration. These safety zones are established to ensure the safety of persons and vessels from hazards, injury, and damage associated with higher-than-normal levels of recreational boating traffic on the water as individuals attempt to view the whales. The Coast Guard has established that there are two Humpback whales, and these safety zones will apply to each whale individually.

**Discussion of Rule**

The Coast Guard is establishing temporary, moving safety zones in the navigable waters of the San Francisco Bay and Delta Region wherever the whales are located. While the whales are in transit these safety zones will apply to the navigable waters around and under each whale within a radius of 500 yards. The effect of the temporary, moving safety zones will be to restrict general navigation in the vicinity of the whales while the whales transit the waters of the bay, and delta. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the safety zone. These safety zones

are needed to keep people and vessels a safe distance away from the whales to ensure the safety of people and vessels.

#### **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.

Although this rule restricts access to the waters encompassed by the safety zones, the effect of this rule will not be significant because the local waterway users will be notified via public broadcast notice to mariners to ensure the safety zones will result in minimum impact. The entities most likely to be affected are pleasure craft engaged in recreational activities and commercial vessels.

#### **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 rule is not expected to have a significant economic impact on a substantial number of entities, some of which may be small entities. This rule may affect owners and operators of pleasure craft, engaged in recreational activities and sightseeing, and commercial vessels. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the area, (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of navigable waters to engage in these activities, (iii) this rule will encompass only a small portion of the waterway for a limited period of time, and (iv) the maritime public will be advised in advance of this safety zone via broadcast notice to mariners.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered 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 Ensign Sheral Richardson, U.S. Coast Guard Sector San Francisco, at (415) 556–2950 extension 136.

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 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.

#### **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 alternatives.

## Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guide 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. Paragraph (34)(g) is applicable because this rule establishes a safety zone. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” will be available in the docket where indicated under

### ADDRESSES.

#### List of Subjects in 33 CFR Part 165

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■ 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, 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 temporary § 165.T11–192 to read as follows:

#### § 165.T11–192 Safety Zones; Whales transiting San Francisco Bay and Delta Region, CA.

(a) *Location.* These temporary, moving safety zones are established for the waters of San Francisco Bay and Delta Region surrounding whales that are swimming through the area. During the whales’ transit these safety zones will encompass the navigable waters around and under each whale within a radius of 500 yards.

(b) *Enforcement Period.* This section will be enforced from 12:01 a.m. May 17, 2007, to 11:59 p.m. June 5, 2007. If the whales leave the area before the scheduled end date, the Coast Guard will cease enforcement of these safety zones 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 these safety zones by all vessels and persons is prohibited, unless specifically authorized by the Captain of the Port, San Francisco, or his designated representative.

(d) *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 can be comprised of 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 shall proceed as directed. The U.S. Coast Guard may be assisted in the patrol and enforcement of these safety zones by local law enforcement as necessary.

Dated: May 17, 2007.

**W. J. Uberti,**

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

[FR Doc. E7–10503 Filed 5–30–07; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R07–OAR–2007–0383; FRL–8318–8]

#### Approval and Promulgation of Implementation Plans; State of Missouri

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a request to amend the Missouri State Implementation Plan (SIP) to include the base year inventory for the Missouri portion of the St. Louis 8-hour ozone national ambient air quality standard (NAAQS) nonattainment area and a demonstration of Missouri’s emissions statement authority. The Missouri portion of the St. Louis nonattainment area consists of the City of St. Louis and Franklin, Jefferson, St. Charles and St. Louis Counties. The nonattainment area also includes four counties in Illinois. This amendment would fulfill Missouri’s obligation, as a moderate nonattainment area, to submit a base year inventory for the 8-hour ozone NAAQS and to demonstrate adequate authority to address the emissions statement requirement as required under Section 182(a)(1) and Section 182(a)(3)(B) of the Clean Air Act, respectively.

**DATES:** This direct final rule will be effective July 30, 2007, without further notice, unless EPA receives adverse comment by July 2, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2007–0383, by one of the following methods:

1. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *E-mail:* [rios.shelly@epa.gov](mailto:rios.shelly@epa.gov).

3. *Mail:* Shelly Rios-LaLuz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier.* Deliver your comments to Shelly Rios-LaLuz, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

*Instructions:* Direct your comments to Docket ID No. EPA–R07–OAR–2007–0383. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of