

are permitted to operate within the temporary RNA.

This temporary rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit the RNA within the Port of Miami from November 16, 2003 to November 21, 2003. Before the effective period, we will issue maritime advisories widely available to users of the Miami River and the Port of Miami.

#### 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 rule so that they can better evaluate its effects on them. 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 businesses. 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 would 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 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 would not create an environmental risk to health or risk to safety that might 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.

#### 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 we 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.

#### 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; 50 U.S.C. 191, 195; 46 U.S.C. Chapter 701; 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. From 12:01 a.m. on November 16, 2003 until 11:59 p.m. on November 21, 2003, add a new temporary section 165.T07–144 to read as follows:

#### § 165.T07–144 Temporary regulated navigation area and temporary security zones, Port of Miami, FL.

(a) *Locations.* (1) *Regulated navigation area.* All waters of the Port of Miami, from surface to bottom, encompassed by a line commencing at the north mid-point of Fisher Island at 25°45.869'N, 080°08.311'W; thence, westerly along the northern shoreline of Fisher Island to 25°45.843'N, 080°08.942'W; thence, westerly to a point south of Dodge Island at 25°45.890'N, 080°10.122'W; thence, northwest to a point near Quick Flashing Green Marker “15” at 25°46.153'N, 080°10.223'W; thence, northwesterly to a point at 25°46.316'N, 080°10.604' (located south of Dodge Island); thence, northwesterly to the northeastern tip of Cloughton Island at 25°46.165'N, 080°10.969'W; thence, along the northern shoreline of Cloughton Island, southeasterly along the western shoreline to 25°45.950'N, 080°11.163'W at Cloughton Island; thence, westerly along the northern side of the bridge that runs between Cloughton Island and Brickell Point to 25°45.943'N, 080°11.308'W; thence, northeasterly along the eastern shoreline of Brickell Point; thence, encompassing the entire width of the Miami River, from the mouth of the Miami River to the west side of the Flagler Street Bridge at 25°46.434'N, 080°12.046'W; thence, along the shoreline from the northern