

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

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia, at telephone Number (757) 668-5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF-FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) Enforcement Period: This regulation will be enforced from 7 a.m. on March 4, 2009, to 6 p.m. on March 6, 2009.

Dated: February 4, 2009.

Patrick B. Trapp,

Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0046]

RIN 1625-AA00

Safety Zone; Naval Underwater Detonation; Northwest Harbor, San Clemente Island, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of the Northwest Harbor of San Clemente Island in support of the Naval Underwater Detonation. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the training activity. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port (COTP) or his designated representative.

DATES: This rule is effective from February 1, 2009 through April 1, 2009.

ADDRESSES: Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0046 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-

2009-0046 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the U.S. Coast Guard Sector San Diego, 2710 N. Harbor Dr., San Diego, CA 92101 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Petty Officer Kristen Beer, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at (619) 278-7262. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to ensure the safety of commercial and recreational vehicles in the vicinity of the Naval Underwater Detonation on the dates and times this rule will be in effect and delay would be contrary to the public interest.

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**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the public's safety. Any delay in the effective date of this rule would expose mariners to the dangers posed by the detonation of underwater explosives.

Background and Purpose

The Officer in Charge (OIC) of the Southern California Offshore Range will be conducting intermittent training

involving the detonation of military grade explosives underwater throughout February and March 2009. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the training activity.

Discussion of Rule

The Coast Guard is establishing a safety zone that will be enforced from February 1, 2009 through April 1, 2009. The limits of the safety zone will be the navigable waters of the Northwest Harbor of San Clemente Island bounded by the following coordinates: 33°02'06" N, 118°35'36" W; 33°02'00" N, 118°34'36" W; thence along San Clemente shoreline to 33°02'06" N, 118°35'36" W. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the training activities. 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.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size and location of the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times while training is being conducted.

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 will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Northwest Harbor of San Clemente Island from February 1, 2009 through August 1, 2009.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic can pass safely around the safety zone. Although the safety zone will apply to the harbor, traffic will be allowed to pass through the zone with the permission of the Coast Guard patrol commander. Before the effective period, the Coast Guard will issue a broadcast notice to mariners (BNM) alerts.

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 can better evaluate its effects on them and participate in the rulemaking process.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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 an 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 standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.1D, 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 under the Instruction 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.

An environmental analysis checklist and a categorical exclusion determination are 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 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, 3306, 3703; 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 a new temporary § 165.T11–148 to read as follows:

§ 165.T11–148 Safety Zone; Naval Underwater Detonation; Northwest Harbor, San Clemente Island, CA.

(a) *Location.* The limits of the safety zone will include the navigable waters of the Northwest Harbor of San Clemente Island bounded by the following coordinates: 33°02'06" N, 118°35'36" W; 33°02'00" N, 118°34'36" W; thence along the coast of San Clemente Island to 33°02'06" N, 118°35'36" W.

(b) *Enforcement Period.* This section will be enforced from February 1, 2009 through April 1, 2009. If the training is concluded prior to the scheduled termination time, the COTP will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definitions apply to this section: *designated representative*, means any Commissioned, Warrant, or Petty Officers of the Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the COTP; *non-authorized personnel and vessels*, means any civilian boats, fishermen, divers, and swimmers.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the COTP San Diego or his designated representative.

(2) Non-authorized personnel and vessels requesting permission to transit through the safety zone may request authorization to do so from the COTP San Diego or his designated representative. They may be contacted on VHF–FM Channel 16, or at telephone number (619) 278–7033.

(3) Naval units involved in the exercise are allowed in confines of the established safety zone.

(4) All persons and vessels shall comply with the instructions of the Coast Guard COTP or his designated representative.

(5) Upon being hailed by U.S. Coast Guard or other official personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(6) The Coast Guard may be assisted by other federal, state, or local agencies and the U.S. Navy.

Dated: February 3, 2009.

T.H. Farris,

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

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POSTAL SERVICE

39 CFR Part 111

New Pricing Eligibility, Intelligent Mail, and Move Update Standards for Domestic Mailing Services and Shipping Services

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is filing a notice of domestic Mailing Services (and selected Shipping Services) price adjustments, effective in May 2009, with the Postal Regulatory Commission. This final rule provides revised eligibility standards related to the new prices in May 2009.

DATES: Effective May 11, 2009.

FOR FURTHER INFORMATION CONTACT: Bill Chatfield, 202–268–7278.

SUPPLEMENTARY INFORMATION: The Postal Service's final rule includes revised eligibility standards directly related to prices established by the USPS® Governors. We are including a new incentive program for Standard Mail® saturation mailers. The final rule also contains modifications regarding the implementation of the full-service Intelligent Mail® option and a revision to Move Update standards. Additional mail classification changes have been proposed and were published in the **Federal Register** on February 6, 2009 (74 FR 6250–6257).

We summarize revisions by shape of mail, and then provide updates to Intelligent Mail and Move Update, followed by changes to the mailing standards in *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®).

Automation Flats

Effective May 2009, we require all automation flats to bear barcodes that include delivery point routing codes, as currently required for automation letters. We announced this change as part of the final rule for implementation of our Intelligent Mail program, but reiterate it here.

Saturation Mail Volume Incentive Program for Standard Mail

The Postal Service implements an incentive program for saturation mailers who increase their saturation Standard

Mail letters or flats volume. This increase can result from a growth in total mailed volume or a growth in market coverage within a defined market. Mailers able to demonstrate an increase in Standard Mail saturation mailing volume from the prior year will qualify for a per-piece credit for the incremental volume during the program period.

This program begins May 11, 2009 and ends May 10, 2010. If successful, the program may be extended, on a year-by-year basis. For approved participants, the program provides a per-piece credit, to the participant's specified Centralized Account Payment System (CAPS) account, for the verified, incremental volume exceeding the base volume demonstrated in the previous year (May 11, 2008 to May 10, 2009). Participating mailers must pay postage through a permit imprint advance deposit account at the time of application and must have a functioning CAPS account prior to the close of the program period. Each permit imprint advance deposit account used for the payment of postage for saturation mailings must be established at a postal facility having *PostalOne!*® capability.

Mailers wishing to participate in the Standard Mail saturation mail volume incentive program must submit a letter requesting participation to their District Manager, Business Mail Entry (see the postal locator link of the Postal Explorer® at <http://pe.usps.com> and click on Business Mail Entry for contact information). Those interested in participating must apply between February 11, 2009 and June 11, 2009. Requests must be completed and submitted by an authorized official of the business or nonprofit entity that owns the mail. For the purposes of participation in this program, an entity is defined as the parent organization. Franchisees that are not separate business entities may not apply for the incentive independently of the parent organization. Printers and mailing agents may not request participation on behalf of customers for which they prepare the mail. Participating mailers must be able to demonstrate saturation mailing activity in both the 2007 and 2008 calendar years with a minimum of six saturation mailings in the 2008 calendar year.

Mailers who choose to participate only within a market area, must demonstrate volume growth within a specific USPS sectional center facility (SCF) service area over the program period to qualify for the incentives. For example, a mailer can choose to participate for saturation mail destined within the Miami FL SCF,