

**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. 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T01–0526 to read as follows:

**§ 165.T01–0526 Temporary Safety Zones for Fireworks Displays in Boothbay Harbor, South Gardiner, and Woolwich ME**

(a) Locations. The following areas are temporary safety zones:

(1) For the “Windjammer Days Fireworks”: all navigable waters of Boothbay Harbor within a 500 yard radius of the fireworks launch site in the vicinity of Clam Rock in approximate location latitude 43°50′38″ N, longitude 069°37′57″ W.

(2) For the “Boothbay Harbor Fourth of July Fireworks”: all navigable waters of Boothbay Harbor within a 500 yard radius of the fireworks launch site in the vicinity of Clam Rock in approximate location latitude 43°50′38″ N, longitude 069°37′57″ W.

(3) For the “Heritage Days Fireworks”: all navigable waters of the Kennebec River within a 500 yard radius of the fireworks launch site in the vicinity of Reed and Reed Boat Yard, Woolwich, Maine enclosed by an area starting at latitude 43°54′56″ N, longitude 069°48′16″ W.

(4) For the “Westerlund’s Landing Party Fireworks”: all navigable waters of the Kennebec River within a 500 yard radius of the fireworks launch site in the vicinity of Nehumkeag Island, South Gardiner, Maine enclosed by an area starting at latitude 44°10′19.56″ N, longitude 069°45′24.68″ W.

(5) For the “Town of Woolwich 250th Celebration”: all navigable waters of the Kennebec River within a 500 yard radius of the fireworks launch site in the vicinity of Reed and Reed Dockyard, Woolwich, Maine enclosed by an area starting at latitude 43°54′59″ N, longitude 069°48′16″ W.

(b) Enforcement Period. The temporary safety zones will be enforced during the following dates and times:

(1) For the “Windjammer Days Fireworks”: June 24, 2009 (Rain Date: July 4, 2009), between 8 p.m. to 10 p.m.

(2) For the “Boothbay Harbor Fourth of July Fireworks”: July 4, 2009 (Rain Date: July 5, 2009), between 8 p.m. to 10 p.m.

(3) For the “Heritage Days Fireworks”: July 5, 2009 (Rain Date: July 6, 2009), between 8 p.m. to 10 p.m.

(4) For the “Westerlund’s Landing Party Fireworks”: August 1, 2009 (Rain Date: August 2, 2009), between 8 p.m. to 10:30 p.m.

(5) For the “Town of Woolwich 250th Celebration” August 2, 2009 (Rain Date: August 3, 2009), between 9 p.m. to 10 p.m.

(c) Regulations.

(1) During the enforcement period, entry into, transiting, remaining within or anchoring in these safety zones is prohibited unless authorized by the Captain of the Port Northern New England or his designated representatives.

(2) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port Northern New England or his designated representatives.

(3) The “designated representative” is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Northern New England to act on his behalf. The designated representative will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zones shall contact the Captain of the Port Northern New England or his designated representative via VHF Channel 16 to obtain permission to do so.

(5) Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the Captain of the Port Northern New England or his designated representatives.

Dated: June 23, 2009.

**B.J. Downey Jr.,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, Sector Northern New England.*

[FR Doc. E9–15874 Filed 7–6–09; 8:45 am]

**BILLING CODE 4910–15–P**

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

[Docket No. USCG–2009–0522]

RIN 1625–AA00

**Safety Zone; San Clemente Island Northwest Harbor August and September Training; 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 August 1, 2009 through September 30, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0522 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–2009–0522 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail Petty Officer Kristen Beer, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7262, e-mail [Kristen.A.Beer@uscg.mil](mailto:Kristen.A.Beer@uscg.mil). 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 vessels in the vicinity of any 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**. Delay in the effective date would be contrary to the public interest, since immediate action is needed to ensure the public's safety.

## 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 August and September 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 August 1, 2009 through September 30, 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 Island 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. Commercial and 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 commercial and recreational vessels intending to transit or anchor in a portion of the Northwest Harbor of San Clemente Island from August 1, 2009 through September 30, 2009.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone will apply to the entire width of the harbor, commercial and recreational vessels will be allowed to pass through the zone with the permission of the U.S. Navy or Coast Guard Sector San Diego. Before the effective period, the Coast Guard will issue a broadcast notice to mariners (BNM) alerts and publish local notice to mariners (LNM).

## 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 023-01 and Commandant Instruction M16475.ID, 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a temporary safety zone. 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.T11-210 to read as follows:

#### § 165.T11-210 Safety Zone; San Clemente Island Northwest Harbor August and September Training; 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 August 1, 2009 through September 30, 2009 during naval training exercises. 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: (1) *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 behalf of the COTP.

(2) *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 the 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 the 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: June 22, 2009.

**D.L. LeBlanc,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0399]

RIN 1625-AA00

#### Safety Zone, Kinnickinnic River Sediment Removal Project, Milwaukee, WI

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary interim rule with request for comments.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on