

airworthiness directive (AD) action by October 6, 2009.

#### Affected ADs

(b) This AD supersedes AD 87-14-01 R1, Amendment 39-6359.

#### Applicability

(c) This AD applies to Pratt & Whitney JT8D-7, -7A, -7B, -9, -9A, -11, -15, and -17 turbofan engines, with 2nd stage fan blades, part number (P/N) 433802, 645902, 759902, 695932, 678102, or 746402, installed. These engines are installed on, but not limited to, Boeing 727, 737, and McDonnell Douglas DC-9 series airplanes.

#### Unsafe Condition

(d) This AD results from reports of 10 fractures of 2nd stage fan blades since AD 87-14-01R1 became effective. We are issuing this AD to prevent uncontained failure of 2nd stage fan blades, which could result in damage to the airplane.

#### Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

#### 2nd Stage Fan Blade Inspections

(f) For 2nd stage fan blades, P/N 678102 and P/N 746402, perform an eddy current inspection (ECI) of the blade pin-root holes for cracks, and for 2nd stage fan blades, P/Ns 433802, 645902, 759902, and 695932, perform an ECI of the blade pin-root holes and perform an ultrasonic inspection (UI) of the blade root attachment for cracks, as follows:

(1) Perform an inspection at the first disassembly of the 2nd stage fan rotor from the low-pressure (LP) compressor after accumulation of 3,000 cycles-in-service (CIS) since the last inspection of the blade root attachment, not to exceed 10,000 CIS since last inspection.

(2) If the 2nd stage fan blades were new at their last installation onto the 2nd stage fan disk, inspect at the first disassembly of the 2nd stage fan rotor from the LP compressor after accumulating 3,000 cycles-since-new (CSN), not to exceed 10,000 CSN.

(3) Thereafter, inspect the 2nd stage fan blades at each disassembly of the 2nd stage fan rotor from the LP compressor after accumulating 3,000 CIS, not to exceed 10,000 CIS since the last inspection.

(4) Guidance on performing ECIs and UIs of the 2nd stage fan blade pin-root holes and blade root attachments can be found in Pratt & Whitney Maintenance Advisory Notice MAN-JT8D-1-08.

(5) Remove from service before further flight any 2nd stage fan blades that are found cracked.

#### Optional Terminating Action

(g) For JT8D-9, -9A, -11, -15, and -17 engines, as optional terminating action to the repetitive inspections required by this AD, replace the affected 2nd stage fan blades with redesigned 2nd stage fan blades using Pratt & Whitney Service Bulletin No. 5866, Revision 2, dated October 20, 1998.

#### Alternative Methods of Compliance

(h) The Manager, Engine Certification Office, FAA, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

#### Related Information

(i) Contact Kevin Dickert, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: [kevin.dickert@faa.gov](mailto:kevin.dickert@faa.gov); telephone (781) 238-7117, fax (781) 238-7199, for more information about this AD.

(j) Contact Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565-8770; fax (860) 565-4503, for a copy of the service information referenced in this AD.

Issued in Burlington, Massachusetts, on August 3, 2009.

**Francis A. Favara,**

*Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. E9-18941 Filed 8-6-09; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0277]

RIN 1625-AA00

#### Safety Zone; San Clemente Island, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes establishing a safety zone around San Clemente Island in support of potentially hazardous military training and testing exercises. The existing zones do not sufficiently overlap potential danger zones and testing areas used by the Navy during live-fire and ocean research operations resulting in a delay or cancellation of these operations. The proposed safety zone would protect the public from hazardous, live-fire and testing operations and ensure operations proceed as scheduled.

**DATES:** Comments and related material must be received by the Coast Guard on or before November 5, 2009. Requests for public meetings must be received by the Coast Guard on or before August 28, 2009.

**ADDRESSES:** You may submit comments identified by docket number USCG-2009-0277 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed 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 or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

#### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

#### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG-2009-0277), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand deliver, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can

contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert "USCG-2009-0277" in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert USCG-2009-0277 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

### Regulatory Information

The Coast Guard is proposing to establish this safety zone to conduct training essential to successful accomplishment of U.S. Navy missions relating to military operations and national security. Accordingly, this proposed safety zone falls within the military function exception to the Administrative Procedure Act (APA), 5 U.S.C. 553(a)(1). Notice and comment rulemaking under 5 U.S.C. 553(b) and an effective date of 30 days after publication under 5 U.S.C. 553(d) are not required for this rulemaking.

However, we have determined that it would be beneficial to accept public comments on this proposed rule. Therefore, we will be accepting comments until November 5, 2009. By issuing this notice of proposed rulemaking and accepting public comments, the Coast Guard does not waive its ability to claim the military function exception to notice and comment rulemaking.

### Background and Purpose

As part of the Southern California Range Complex, San Clemente Island (SCI) and the surrounding littoral waters support the training requirements for the U.S. Pacific Fleet, Fleet Marine Forces Pacific, Naval Special Warfare Command, Naval Expeditionary Combat Command and other military training and research units. In 1934, Executive Order 6897 transferred ownership of SCI from the Department of Commerce to the Department of the Navy for "naval purposes". The San Clemente Island Range Complex (SCIRC) has the capability to support training in all warfare areas including Undersea Warfare, Surface Warfare, Mine Warfare, Strike Warfare, Air Warfare, Amphibious Warfare, Command and Control, and Naval Special Warfare. It is the only location in the United States that supports Naval Special Warfare full-mission training profiles. The Shore Bombardment Area (SHOBA) is the only range in the United States where expeditionary fire support exercises utilizing ship to shore naval gunfire can be conducted. SCI's unique coastal topography, proximity to the major Fleet and Marine concentration areas in San Diego County, supporting infrastructure, and exclusive Navy ownership make the island and surrounding waters vitally important for fleet training, weapon and electronic systems testing, and research and development activities.

The proposed safety zone is necessary to protect the public from hazardous, live-fire and testing operations and ensure operations proceed as scheduled.

### Discussion of Proposed Rule

The Coast Guard proposes to establish a permanent safety zone around San Clemente Island for use by the U.S. Navy. The segmented safety zone would extend from the high tide line seaward 3 NM. The zone would be broken down into the following sections:

#### (a) Section A

Beginning at 33°02.05' N, 118°35.85' W; thence to 33°04.93' N, 118°37.07' W; thence running parallel to the shore at a distance of approximately 3 NM from the high tide line to 33°02.82' N, 118°30.65' W; thence to 33°17.28' N, 118°33.88' W; thence along the shoreline returning to 33°02.05' N, 118°35.85' W.

#### (b) Section B

Beginning at 32°57.30' N, 118°30.88' W; thence to 32°59.60' N, 118°28.33' W; thence running parallel to the shore at a distance of approximately 3 NM from the high tide line to 32°55.83' N, 118°24.22' W; thence to 32°53.53' N, 118°26.52' W; thence along the shoreline returning to 32°57.30' N, 118°30.88' W.

#### (c) Section C

Beginning at 32°53.53' N, 118°26.52' W; thence to 32°55.83' N, 118°24.22' W; thence running parallel to the shoreline at a distance of approximately 3 NM from the high tide line to 32°47.27' N, 118°18.23' W; thence to 32°49.10' N, 118°21.05' W; thence along the shoreline returning to 32°53.53' N, 118°26.52' W.

#### (d) Section D

Beginning at 32°49.10' N, 118°21.05' W; thence to 32°47.27' N, 118°18.23' W; thence running parallel to the shoreline at a distance of approximately 3 NM from the high tide line to 32°48.38' N, 118°31.69' W; thence to 32°50.70' N, 118°29.37' W; thence along the shoreline returning to 32°49.10' N, 118°21.05' W.

#### (e) Section E

Beginning at 32°50.70' N, 118°29.37' W; thence to 32°48.05' N, 118°31.68' W; thence running parallel to the shoreline at a distance of approximately 3 NM from the high tide line to 32°53.62' N, 118°35.93' W; thence to 32°56.13' N, 118°32.95' W; thence along the shoreline returning to 32°50.70' N, 118°29.37' W.

#### (f) Section F

Beginning at 32°56.13' N, 118°32.95' W; thence to 32°53.62' N, 118°35.93' W; thence running parallel to the shoreline at a distance of approximately 3 NM

from the high tide line to 32°59.95' N, 118°39.77' W; thence to 33°01.08' N, 118°36.33' W; thence along the shoreline returning to 32°56.13' N, 118°32.95' W.

*(g) Section G*

Beginning at 33°01.08' N, 118°36.333' W; thence to 32°59.95' N, 118°39.77' W; thence running parallel to the shoreline at a distance of approximately 3 NM from the high tide line to 33°04.93' N, 118°37.07' W; thence to 33°02.05' N, 118°35.85' W; thence along the shoreline returning to 33°01.08' N, 118°36.33' W.

*(h) Wilson Cove*

Beginning at 33°01.28' N, 118°33.88' W; thence to 33°02.82' N, 118°30.65' W; thence running parallel to the shoreline at a distance of approximately 3 NM from the high tide line to 32°59.60' N, 118°28.33' W; thence to 32°57.30' N, 118°30.88' W; thence along the shoreline returning to 33°01.28' N, 118°33.88' W.

All of the sections above would be continually enforced as a safety zone, thereby restricting public use of these offshore waters. Mariners desiring to transit through Section G or the Wilson Cove section would be required to request authorization to do so from the Fleet Area Control and Surveillance Facility (FACSFAC) San Diego. In the final rule, the Navy will provide a call sign to be used by mariners to request transfer to the appropriate FACSFAC point of contact for authorizing safe transit through these safety zone sections.

Mariners who wish to transit through any of the other six sections (A, B, C, D, E, and/or F) would also be required to request permission from FACSFAC San Diego, using the same procedure described above, except during periods when the Navy is not conducting potentially hazardous military training or testing activity. Mariners would be able to transit some or all of these sections without obtaining prior authorization from FACSFAC San Diego only when the Coast Guard notifies the public that enforcement of the zone in specified sections is temporarily suspended. Notice of suspended enforcement would be provided through broadcast notice to mariners and publication in the local notice to mariners; and the schedule of restricted access periods by date, location and duration would continue to be posted at <http://www.scisland.org>.

### Regulatory Analyses

We developed this proposed 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 proposed 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 fact that the majority of the proposed safety zone will be open a significant portion of the time.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Pacific Ocean around San Clemente Island.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Except for Section G and Wilson Cove, which will be continually enforced, the safety zone would be activated, and thus subject to enforcement, only during naval training and testing exercises. During periods when portions of the safety zone are enforced in sections A through F, vessel traffic could pass safely around the safety zone. When the safety zone is not enforced, vessel traffic would be allowed to use the offshore waters for commercial and recreational activities. Permission for safe vessel transit through the permanently restricted safety zones designated Section G and Wilson Cove may be requested of the Fleet Area Control and Surveillance Facility, San Diego.

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 possible effects, if any, 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 Kristen Beer (*see ADDRESSES*). The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### Collection of Information

This proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would 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 proposed 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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 proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 0023.1 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 made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves establishing a safety zone under figure 2–1, paragraph (34)(g), of the Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed 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 proposes to amend 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; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add a new § 165.1141:

#### § 165.1141 Safety Zone; San Clemente Island, CA.

(a) *Location*. The following area is a safety zone: All waters of the Pacific Ocean surrounding San Clemente Island, from surface to bottom, extending from the high tide line on the island seaward 3 NM. The zone consists of the following sections (see Figure 1):

##### (1) Section A

Beginning at 33°02.05' N, 118°35.85' W; thence to 33°04.93' N, 118°37.07' W;

thence running parallel to the shore at a distance of approximately 3 NM from the high tide line to 33°02.82' N, 118°30.65' W; thence to 33°17.28' N, 118°33.88' W; thence along the shoreline returning to 33°02.05' N, 118°35.85' W.

##### (2) Section B

Beginning at 32°57.30' N, 118°30.88' W; thence to 32°59.60' N, 118°28.33' W; thence running parallel to the shore at a distance of approximately 3 NM from the high tide line to 32°55.83' N, 118°24.22' W; thence to 32°53.53' N, 118°26.52' W; thence along the shoreline returning to 32°57.30' N, 118°30.88' W.

##### (3) Section C

Beginning at 32°53.53' N, 118°26.52' W; thence to 32°55.83' N, 118°24.22' W; thence running parallel to the shoreline at a distance of approximately 3 NM from the high tide line to 32°47.27' N, 118°18.23' W; thence to 32°49.10' N, 118°21.05' W; thence along the shoreline returning to 32°53.53' N, 118°26.52' W.

##### (4) Section D

Beginning at 32°49.10' N, 118°21.05' W; thence to 32°47.27' N, 118°18.23' W; thence running parallel to the shoreline at a distance of approximately 3 NM from the high tide line to 32°48.38' N, 118°31.69' W; thence to 32°50.70' N, 118°29.37' W; thence along the shoreline returning to 32°49.10' N, 118°21.05' W.

##### (5) Section E

Beginning at 32°50.70' N, 118°29.37' W; thence to 32°48.05' N, 118°31.68' W; thence running parallel to the shoreline at a distance of approximately 3 NM from the high tide line to 32°53.62' N, 118°35.93' W; thence to 32°56.13' N, 118°32.95' W; thence along the shoreline returning to 32°50.70' N, 118°29.37' W.

##### (6) Section F

Beginning at 32°56.13' N, 118°32.95' W; thence to 32°53.62' N, 118°35.93' W; thence running parallel to the shoreline at a distance of approximately 3 NM from the high tide line to 32°59.95' N, 118°39.77' W; thence to 33°01.08' N, 118°36.33' W; thence along the shoreline returning to 32°56.13' N, 118°32.95' W.

##### (7) Section G

Beginning at 33°01.08' N, 118°36.333' W; thence to 32°59.95' N, 118°39.77' W; thence running parallel to the shoreline at a distance of approximately 3 NM from the high tide line to 33°04.93' N,

118°37.07' W; thence to 33°02.05' N, 118°35.85' W; thence along the shoreline returning to 33°01.08' N, 118°36.33' W.

(8) *Wilson Cove*

Beginning at 33°01.28' N, 118°33.88' W; thence to 33°02.82' N, 118°30.65' W; thence running parallel to the shoreline at a distance of approximately 3 NM

from the high tide line to 32°59.60' N, 118°28.33' W; thence to 32°57.30' N, 118°30.88' W; thence along the shoreline returning to 33°01.28' N, 118°33.88' W.

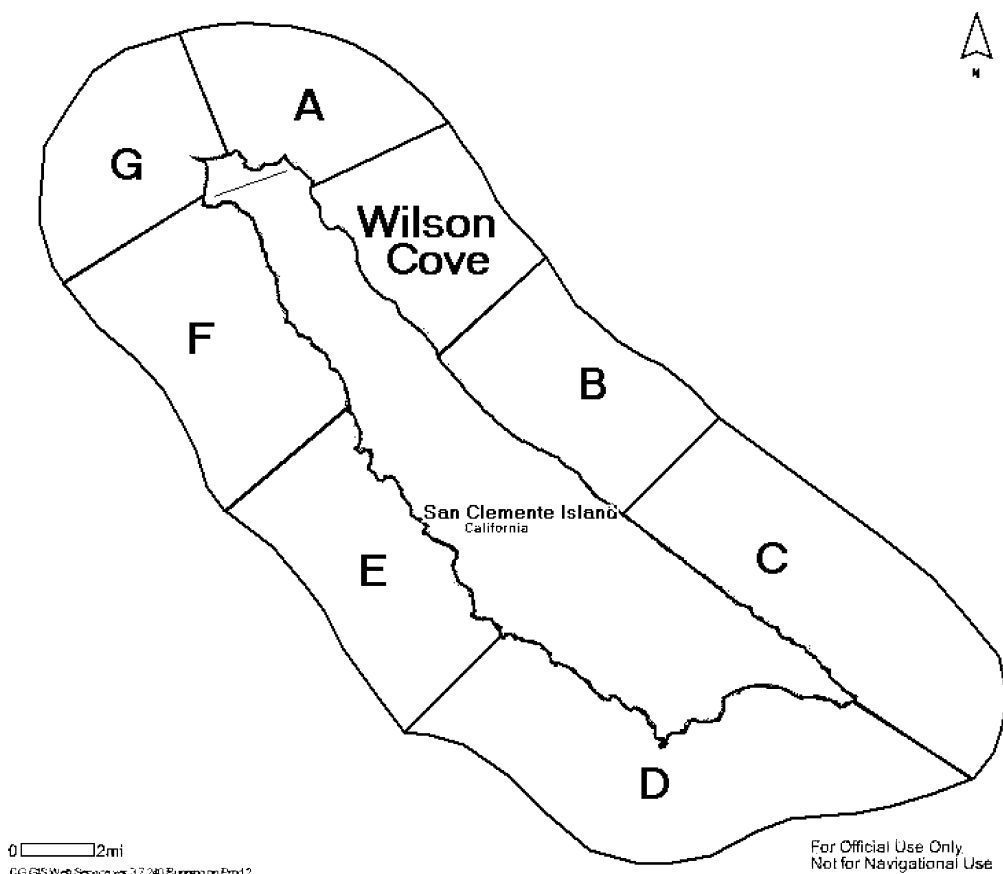


Figure 1. San Clemente Island Safety Zone Configuration

(b) *Definitions.* The following definition applies to this section: *Designated representative* means any commissioned, warrant, or petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, or local, state, or federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(c) *Enforcement.* (1) This regulation will be enforced at all times in Section G and the Wilson Cove section of the safety zone described in paragraph (a). Mariners must obtain permission in accordance with the procedure described in paragraph (d)(2) before entering either of those sections.

(2) This regulation will be enforced in Sections A through F of the safety zone described in paragraph (a) except when the Coast Guard notifies the public that enforcement of the zone in specified sections is temporarily suspended. Mariners need not obtain permission in

accordance with the procedure described in paragraph (d)(2) to enter a zone section in which enforcement is temporarily suspended. At all other times, mariners must obtain permission in accordance with the procedure described in paragraph (d)(2) before entering any of those sections.

(3) The COTP will provide notice of suspended enforcement by means appropriate to effect the widest publicity, including broadcast notice to mariners, publication in the local notice to mariners, and posting the schedule of restricted access periods by date, location and duration at <http://www.scisland.org>.

(d) *Regulations.* (1) The general regulations governing safety zones found in 33 CFR 165.23 apply to the safety zone described in paragraph (a) of this section.

(2) Mariners requesting permission to transit through any section of the zone

may request authorization to do so from the Fleet Area Control and Surveillance Facility (FACSFAC) San Diego by either calling (619) 545-4742 or establishing a VHF bridge-to-bridge radio connection on Channel 16. Immediately upon completing transit, the vessel operator must promptly notify FACSFAC of safe passage through the safety zone. Failure to expeditiously notify FACSFAC of passage through the safety zone will result in a determination by the Navy that the vessel is still in the safety zone, thereby restricting the use of the area for naval operations. If the Navy determines that facilitating safe transit through the zone negatively impacts range operations, the Navy will cease this practice and enforce the safety zone without exception.

(3) All persons and vessels must comply with the instructions of the U.S. Navy, Coast Guard Captain of the Port or the designated representative.

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

(5) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone described in paragraph (a) of this section by the U.S. Navy and local law enforcement agencies.

Dated: June 15, 2009.

**T.H. Farris,**

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

[FR Doc. E9-18760 Filed 8-6-09; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 1

#### RIN 2900-AN14

#### Deceased Indebted Servicemembers and Veterans: Authority Concerning Certain Indebtedness

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend Department of Veterans Affairs (VA) regulations to implement certain provisions of the Combat Veterans Debt Elimination Act of 2008 and of the Veterans' Benefits Improvement Act of 2008. The proposed rule would implement the first statute's provisions granting limited authority to the Secretary of Veterans Affairs (Secretary) to terminate collection action on certain debts arising from a VA benefit program when the indebted individual is a member of the Armed Forces or a veteran who dies as a result of injury incurred or aggravated in the line of duty while serving in a theater of combat operations in a war or in combat against a hostile force during a period of hostilities after September 11, 2001, and to refund amounts collected after the individual's death. The proposed rule would also implement the second statute's provisions that similarly grants the Secretary discretionary authority to suspend or terminate collection of debts owed to VA by individuals who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy, and to refund amounts collected after the individual's death.

**DATES:** Comments must be received on or before October 6, 2009.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN14 Deceased Indebted Servicemembers and Veterans." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Peter Mulhern, Office of Financial Policy (047G), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. *Telephone:* (202) 461-6487 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** Prior to the enactment of section 1303 of the Combat Veterans Debt Elimination Act of 2008 (Pub. L. 110-252) and section 801 of the Veterans' Benefits Improvement Act of 2008 (Pub. L. 110-389), VA could terminate collection of an indebtedness owed by a deceased servicemember or veteran only after determining that the servicemember or veteran left no estate or an insufficient estate from which to collect the debt. VA would contact the decedent's family or next-of-kin regarding collection of the debt to obtain information needed to make a decision on terminating collection. No matter how compassionate the language of the demand for repayment, VA's attempt to collect a debt at such time and under such circumstances has a huge emotional impact on the decedent's family. The Government's attempt to collect such a debt in these cases is often viewed as a callous action, which demonstrates a complete disregard and lack of gratitude for the servicemember's sacrifice, and insensitivity to the family's loss of their loved one.

Section 1303 of Public Law 110-252 amends chapter 53 of title 38, United States Code, to add a new section (38 U.S.C. 5302A) granting limited authority to the Secretary to terminate collection action on certain debts arising from an individual's indebtedness from a VA

benefit program. The individual must be a member of the Armed Forces or a veteran who dies as a result of injury incurred or aggravated in the line of duty while serving in a theater of combat operations, as determined by the Secretary in consultation with the Secretary of Defense, in a war or in combat against a hostile force during a period of hostilities after September 11, 2001. This authority may be exercised in the Secretary's discretion when determined to be in the best interest of the United States. This authority does not apply to any amounts owed the United States under any program carried out under the authority of 38 U.S.C. chapter 37 relating to housing and small business loans. This legislation eliminates the need to contact family members and avoids further hardship on them. Instead, it demonstrates appreciation for the decedent's sacrifice on behalf of a grateful Nation.

Section 1303 of Public Law 110-252 also states that in any case where all or any part of a debt of a covered individual, as described in 38 U.S.C. 5302A(a), was collected after September 11, 2001, but before the date of Public Law 110-252, enacted on June 30, 2008, the Secretary may refund the amount collected if, in the Secretary's determination, collection of the indebtedness would have been terminated had section 5302A been in effect at the time and the individual is equitably entitled to such a refund.

Noting the problems associated with contacting grieving survivors for purposes of collecting the debts owed to VA described above, *see* S. Rep. No. 110-449, at 43-44 (2008) (discussing the predecessor bill), Congress enacted section 801 of Public Law 110-389, which amended 31 U.S.C. 3711(f) and granted limited authority to the Secretary to suspend or terminate action to collect a claim against the estate of a person who died while serving on active duty as a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard during a period when the Coast Guard is operating as a service in the Navy. The Secretary must determine that, under circumstances applicable with respect to the deceased person, it is appropriate to do so. Section 801 of Public Law 110-389 also grants the Secretary the authority to refund to the estate of the deceased member any amount collected by the Secretary from a member who died while serving on active duty as a member of the Armed Forces if the Secretary determines that, under the circumstances applicable with respect to the deceased person, it is appropriate to do so, whether