

nautical charts. Note that the 60 foot depth curve is readily identifiable on NOAA chart 13303 (Approaches to Penobscot Bay).

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) Entry into, transiting, diving, dredging, dumping, fishing, trawling, conducting salvage operations, remaining within or anchoring in this safety zone is prohibited unless authorized 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.

(4) Vessel operators desiring to enter or operate within the safety zone may contact the Captain of the Port Northern New England or his designated representative at the Coast Guard Sector Northern New England Command Center via VHF Channel 16 or by phone at (207) 741-5465 to request permission.

(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: July 15, 2009.

J.B. McPherson,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0383]

RIN 1625-AA00

Safety Zone; Paddle for Clean Water; San Diego; CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone upon the navigable waters of the Pacific Ocean, San Diego, CA, in support of a paddling regatta near the Ocean Beach Pier. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. 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.

DATES: This rule is effective on September 13, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-0383 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0383 in the "Keyword" box, and then clicking "Search." This material is 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 Shane Jackson, Waterways Management, Coast Guard; telephone 619-278-7262, e-mail Shane.E.Jackson@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

On June 29, 2009 we published a notice of proposed rulemaking (NPRM) entitled Safety zone; Paddle for Clean Water; San Diego; California in the *Federal Register* (74 FR 30991). We received 0 comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The Surfrider Foundation San Diego Chapter is sponsoring the Paddle for Clean Water. The event will consist of 900 to 1000 participants paddling around the Ocean Beach Pier. The sponsor will provide rescue vessels, as well as perimeter safety boats for the duration of this event. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway.

Discussion of Rule

The Coast Guard is establishing a safety zone that will be enforced on September 13, 2009 from 9 a.m. to 4 p.m. The limits of the safety zone will be as follows:

32°45.00' N, 117°15.12' W;
32°45.10' N, 117°15.30' W;
32°44.55' N, 117°15.38' W;

32°44.43' N, 117°15.19' W; along the shoreline to
32°45.00' N, 117°15.12' W.

This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels will be 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 temporary final 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 vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times unless authorized to do so by the Captain of the Port or his designated representative.

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 determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM 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.

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 M16475.1D, 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 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 establishment of a 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new temporary zone § 165.T11–201 to read as follows:

§ 165.T11–201 Safety zone; Paddle for Clean Water; San Diego; California

(a) *Location.* The limits of the safety zone will be as follows:

32°45.00′ N, 117°15.12′ W;
32°45.10′ N, 117°15.30′ W;
32°44.55′ N, 117°15.38′ W;
32°44.43′ N, 117°15.19′ W; along the shoreline to
32°45.00′ N, 117°15.12′ W.

(b) *Enforcement Period.* This section will be enforced on September 13, 2009 from 9 a.m. to 4 p.m. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

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

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

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Command Center (COMCEN). The COMCEN may be contacted on VHF-FM Channel 16 or (619) 278-7033.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) 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.

(5) The Coast Guard may be assisted by other Federal, State, or local agencies.

Dated: August 18, 2009.

D.L. Leblanc,

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

[FR Doc. E9-21439 Filed 9-4-09; 8:45 am]

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POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2009-36 and CP2009-55; Order No. 279]

New Postal Product

AGENCY: Postal Regulatory Commission.
ACTION: Final rule.

SUMMARY: The Commission is adding Priority Mail Contract 16 to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

DATES: Effective September 8, 2009 and is applicable beginning August 17, 2009.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Sharfman, General Counsel, 202-789-6820 and stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION: *Regulatory History*, 74 FR 39122 (August 5, 2009).

- I. Introduction
- II. Background
- III. Comments
- IV. Errata
- V. Commission Analysis
- VI. Ordering Paragraphs

I. Introduction

The Postal Service seeks to add a new product identified as Priority Mail Contract 16 to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

II. Background

On July 24, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.* to add Priority Mail Contract 16 to the Competitive Product List.¹ The Postal Service asserts that the Priority Mail Contract 16 product is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). This Request has been assigned Docket No. MC2009-36.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. The contract has been assigned Docket No. CP2009-55.

In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the contract which, among other things, provides that the contract will expire 1 year from the effective date, which is proposed to be the day that the Commission issues all regulatory approvals;² (2) requested changes in the Mail Classification Schedule product list;³ (3) a Statement of Supporting Justification as required by 39 CFR 3020.32;⁴ and (4) certification of compliance with 39 U.S.C. 3633(a).⁵ The Postal Service also references Governors’ Decision 09-6, filed in Docket No. MC2009-25, as authorization of the new product. Notice at 1.

In the Statement of Supporting Justification, Mary Prince Anderson, Acting Manager, Sales and Communications, Expedited Shipping, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to coverage of institutional

costs, and will increase contribution toward the requisite 5.5 percent of the Postal Service’s total institutional costs. Request, Attachment C, at 1. W. Ashley Lyons, Manager, Regulatory Reporting and Cost Analysis, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). *See id.*, Attachment D.

The Postal Service filed much of the supporting materials, including the supporting data and the unredacted contract, under seal. In its Request, the Postal Service maintains that the contract and related financial information, including the customer’s name and the accompanying analyses that provide prices, certain terms and conditions, and financial projections, should remain confidential. *Id.* at 2-3.

In Order No. 260, the Commission gave notice of the two dockets, appointed a public representative, and provided the public with an opportunity to comment.⁶

III. Comments

Comments were filed by the Public Representative.⁷ No comments were submitted by other interested parties.

The Public Representative states that each “element of 39 U.S.C. 3633(a) appears to be met by Priority Mail Contract 16. *Id.* at 2. On the other hand, he observes “it is not clear that the * * * justification of this contract * * * comports with the requirements of 3632(b)(3).” *Id.* at 3. He submits that the term of the contract is ambiguous, particularly because the provision stating that the contract “shall expire one year from the effective date” is at odds with other clauses for annual adjustments. *Id.* at 3. While recognizing the Governors’ preapproved pricing shell, he also contends that “the contract expiration must be established definitively since it is an essential component of the contract’s classification as ‘a product.’” *Id.*

The Public Representative notes that the Postal Service has duties to provide packaging and labels. *Id.* at 2-3. He also points out that the “contract appears to be silent on issues such as manifesting, electronically or otherwise.” *Id.* at 3. He adds that the Postal Service’s Request at Attachment C provides a statement of support that incorrectly refers to Priority Mail Contract 14, rather than 16.

¹ Request of the United States Postal Service to Add Priority Mail Contract 16 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, July 24, 2009 (Request).

² Attachment A to the Request.

³ Attachment B to the Request.

⁴ Attachment C to the Request.

⁵ Attachment D to the Request.

⁶ PRC Order No. 260, Notice and Order Concerning Priority Mail Contract 16 Negotiated Service Agreement, July 29, 2009 (Order No. 260).

⁷ Public Representative Comments in Response to United States Postal Service Request to Add Priority Mail Contract 16 to Competitive Product List, (Public Representative Comments). The Commission reads these comments as relating to Priority Mail Contract 16, notwithstanding inadvertent reference to Priority Mail Contract 15.