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**SUPPLEMENTARY INFORMATION:** A notice of public hearing that appeared in the *Federal Register* on Friday, October 31, 2008 (73 FR 64903), announced that a public hearing was scheduled for February 19, 2009, at 10 a.m., in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is under sections 108 and 721 of the Internal Revenue Code.

The public comment period for these regulations expired on January 29, 2009. Outlines of topics to be discussed at the hearing were due on January 27, 2009. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Tuesday, February 3, 2009, no one has requested to speak. Therefore, the public hearing scheduled for February 19, 2009, is cancelled.

**Guy Traynor,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-1016]

RIN 1625-AA87

#### Security Zone; Naval Base Point Loma; San Diego Bay, San Diego, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes the expansion of a naval security zone. This action would expand an existing security zone, which in doing so would encompass a nearby security zone in its entirety. The subsumed security zone would be removed. This action also proposes the installation of water barriers within the expanded security zone. These water borne barriers will provide a line of demarcation and a defensive measure as a safeguard from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. No persons or vessel may enter

or remain in the security zone without the permission of the Captain of the Port, the Commander of Naval Base Point Loma, the Commander of Naval Region Southwest, or a designated representative of those individuals.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before March 13, 2009 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG-2008-1016 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 methods. For instructions on submitting comments, see the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Lieutenant Commander Mike Dolan, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at 619-278-7261. 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-2008-1016), 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, or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone 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-2008-1016" 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 them 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-2008-1016 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either 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; or the U.S. Coast Guard Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101 between 8 a.m. and 3 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 to the Docket Management Facility at the address under **ADDRESSES** explaining why one 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**.

### Background and Purpose

The U.S. Navy is requesting an expansion of an existing security zone. The new zone will allow for installation of water barriers to provide a line of demarcation and defensive measure as a safeguard from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature. The expanded security zone would entirely subsume a nearby existing security zone, which would be removed.

### Discussion of Proposed Rule

The Coast Guard proposes an expansion of an existing security zone in the San Diego Bay for U.S. Navy. The limits of the security zone would be as follows: The water adjacent to Naval Base Point Loma, San Diego, California, enclosed by the following coordinates:

Beginning at 32°42.48' N, 117°14.21' W (Point A); 32°42.48' N, 117°14.17' W (Point B); 32°42.17' N, 117°14.00' W (Point C); 32°41.73' N, 117°14.21' W (Point D); 32°41.53' N, 117°14.23' W (Point E); 32°41.55' N, 117°14.02' W (Point F); 32°41.17' N, 117°13.95' W (Point G); 32°41.04' N, 117°14.14' W (Point H); thence running generally north along the shoreline to the place of beginning (Point A).

This security zone is necessary to provide as a safeguard against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. No persons or vessel may enter or remain in the security zone without the permission of the Commander, Naval Base Point Loma; Commander, Naval Region Southwest; the Captain of the Port, or their respective designated representatives.

This proposed security zone would entirely overlap the existing security zone at 33 CFR 165.1103, which would be removed.

### 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.

This determination is based on the size and location of the security zone. Vessels do not routinely operate for commercial purposes within the area proposed by the security zone expansion, which is currently within a charted restricted area (33 CFR 334.870). Additionally, vessel traffic may pass safely around the security zone.

#### *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 San Diego Bay.

This security zone would not have a significant economic impact on a substantial number of small entities because vessel traffic may pass safely around the security zone.

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 effects 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 Lieutenant

Commander Mike Dolan, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at 619–278–7233. 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 5100.1 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 under the Instruction that this action is not likely to have a significant effect on the human environment. An

environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. 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 record keeping 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; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.1102 to read as follows:

#### § 165.1102 Security Zone; Naval Base Point Loma; San Diego Bay, San Diego, CA.

(a) *Location.* The following area is a security zone: The water adjacent to the Naval Base Point Loma, San Diego, CA, enclosed by the following coordinates:

Beginning at 32°42.48' N, 117°14.21' W (Point A); 32°42.48' N, 117°14.17' W (Point B); 32°42.17' N, 117°14.00' W (Point C); 32°41.73' N, 117°14.21' W (Point D); 32°41.53' N, 117°14.23' W (Point E); 32°41.55' N, 117°14.02' W (Point F); 32°41.17' N, 117°13.95' W (Point G); 32°41.04' N, 117°14.14' W (Point H); thence running generally north along the shoreline to the place of beginning (Point A).

(b) *Regulations.* (1) The general regulations governing security zones found in 33 CFR 165.33 apply to the security zone described in paragraph (a) of this section.

(2) Entry into, or remaining in, the area of this zone is prohibited unless authorized by the Captain of the Port San Diego; Commanding Officer, Naval Base Point Loma; or Commander, Navy Region Southwest.

(3) Persons desiring to transit the area of the security zone may request permission from the Captain of the Port San Diego at telephone number (619) 278-7033 or on VHF channel 16 (156.8 MHz) or from either the Commanding Officer, Naval Base Point Loma or the Commander, Navy Region Southwest by calling the Navy Port Operation Dispatch at telephone number (619)

556-1433 or on VHF-FM channels 16 or 12. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port San Diego or his or her designated representative.

(c) *Definitions.* For purposes of this section:

*Captain of the Port San Diego* means the Commanding Officer of the Coast Guard Sector San Diego.

*Commander, Navy Region Southwest* means Navy Region Commander responsible for the Southwest Region.

*Commanding Officer, Naval Base Point Loma* means the Installation Commander of the naval base located on Point Loma, San Diego, California.

*Designated Representative* means any U.S. Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port San Diego to assist in the enforcement of the security zone described in paragraph (a) of this section.

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

3. Remove § 165.1103.

Dated: December 22, 2008.

**T.H. Farris,**

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

[FR Doc. E9-2879 Filed 2-10-09; 8:45 am]

**BILLING CODE 4910-15-P**

## POSTAL SERVICE

### 39 CFR Part 955

#### Rules of Practice of the Postal Service Board of Contract Appeals

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** This document contains the rules of procedure of the Postal Service Board of Contract Appeals (Board) which will govern all proceedings before the Board. The Board was re-established by the National Defense Authorization Act for Fiscal Year 2006, to hear and decide contract disputes relative to a contract entered into by the United States Postal Service or the Postal Regulatory Commission. In addition the Board has jurisdiction over other matters assigned to it by the Postmaster General, and over matters otherwise authorized by applicable law. The Board intends to issue final, revised rules after considering all comments on the proposed rules.