

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 (adjusted for inflation) 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 cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15

U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 5100.1 and Commandant Instruction M16475.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 that 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 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 § 165.T11–179 to read as follows:

#### § 165.T11–179 Safety zone; Copper Canyon Clean Up, Lake Havasu, AZ.

(a) *Location.* The limits of the safety zone will include all waters of Copper Canyon extending from the surface to the river bottom, within 500 feet of the divers.

(b) *Enforcement Period.* This section will be enforced from 7 a.m. to 11 a.m. on June 1, 2010. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone.

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

(3) 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.

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

Dated: 4/27/2010.

**T. H. Farris,**

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

[FR Doc. 2010–11086 Filed 5–10–10; 8:45 am]

**BILLING CODE 9110–04–P**

#### DEPARTMENT OF DEFENSE

#### Department of the Army, Corps of Engineers

#### 33 CFR Part 334

#### Danger Zone, Pacific Ocean, Naval Base Coronado, Coronado, California

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps) is amending its regulations to establish a naval danger zone in the waters of the Pacific Ocean extending offshore from the small arms range at the Naval Base Coronado (NBC), in Coronado, San Diego County, California. The danger zone will provide

an appropriate and enforceable zone in which the Navy may conduct small arms test firing to qualify military personnel.

**DATES:** *Effective date:* June 10, 2010.

**ADDRESSES:** Headquarters, U.S. Army Corps of Engineers, Operations and Regulatory Community of Practice, 441 G Street, NW., Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, DC at 202-761-4922 or by e-mail at [david.b.olson@usace.army.mil](mailto:david.b.olson@usace.army.mil) or Ms. Peggy Bartels, U.S. Army Corps of Engineers, Los Angeles District, Regulatory Division, at 760-602-4832 or by e-mail at [peggy.j.bartels@usace.army.mil](mailto:peggy.j.bartels@usace.army.mil).

**SUPPLEMENTARY INFORMATION:** The Commander, Naval Base Coronado (NBC), has requested that the Corps establish a danger zone in the waters of the Pacific Ocean, pursuant to its authorities under section 7 of the Rivers and Harbors Act of 1917 (40 State 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 1). From 1959 to 2008, the Navy has operated a partially baffled Small Arms Range (SAR) at NBC. The SAR consists of two firing areas, a 12-lane pistol range and a 10-lane rifle range, each of which are 25 yards in length. The targets are backed by a 20-foot-high berm and each range has an 18-foot-high berm along the edges. During operation, approximately 1,000 military personnel use the SAR for small arms qualification every month. From 1958 until 2008, the SAR routinely operated 360 days of the year, during which time the Navy implemented and observed safety measures to prevent potential ricochets from exiting the SAR.

In 2008, after an internal safety review, the Navy voluntarily closed the SAR for the purpose of formally establishing the danger zone under the Corps authorities cited above. Although there have been no known public safety incidents since it was constructed, the Navy elected to suspend all operations at the SAR until a danger zone was formally established. The danger zone is essential to guard persons and property from the dangers associated with possible munitions ricochets and to bring the existing NBC SAR into compliance with the Department of Navy regulations in the Military Handbook, Range Facilities and Miscellaneous Training Facilities Other Than Buildings, MIL-HDBK-1027/3B (30 November 1992, Change 1, 30 June

1995, Naval Facilities Engineering Command, Southern Division, Charleston, South Carolina).

The proposed rule was published in the July 9, 2009, edition of the **Federal Register** (74 FR 32818) and the docket number is COE-2009-0033. In June and August 2009, the Corps' Los Angeles District issued public notices soliciting comments on the proposal to all known interested parties. The District received a total of 24 comments. Please note that the proposed rule referred to the installation as Naval Air Station North Island and the final rule uses the current designation of the installation, which is Naval Base Coronado.

Several commenters stated the area in question has many uses of high priority to the maritime community, including yacht club races; bait hauling for sports fishing charters; recreational fishers; and lobster trapping. The danger zone and nearby area are transited by many visitors on recreational boats throughout the day and night. Commenters stated that stray rounds so close to the entrance to San Diego Bay was "absolutely unacceptable." They also noted that vessels returning from Mexico would have no idea what the SAR warning flags along the shoreline indicate and may inadvertently travel through the danger zone. They recommended either an enclosed indoor range be used, or the rifle range be placed at Camp Pendleton, Otay Mesa, El Cajon, or Escondido. One commenter was concerned about anchoring along the Zuniga Jetty near the danger zone. Another commenter was concerned about the effect of the danger zone on the Sir Lipton Cup Races.

To ensure safe use of the danger zone by the public, section 334.866(b) of the rule was modified to provide more advance notice of the Navy's intention to use the SAR during periods of activity by the following means: VHF-FM radio communication, Web sites, raising flags, and flashing red lights.

The far west end (deep end) of the danger zone is located approximately one thousand (1,000) meters east of the entrance to San Diego Bay. Department of Navy munitions experts have assured the Corps that the SAR design and safety features will prevent ricochets from exiting the SAR with the exception of a rare ricochet that may reach the danger zone in the Pacific Ocean. However, the danger zone is configured so that these rare ricochets will not exit from it.

To assist mariners, updated nautical charts will be published by the National Oceanic and Atmospheric Administration that cite the regulations and clearly depict the boundaries of the

danger zone. These nautical charts are used by mariners internationally and should provide danger zone awareness required by international boaters traveling in or near the SAR and the danger zone. In addition, the locations of the SAR's flag poles and flashing red lights will be mapped on the nautical charts.

The Corps considered five alternatives to the proposal, including those suggested by the commenters. The alternatives were rejected from further consideration for the following reasons: no Congressional authority has authorized the use of funds to enclose the SAR; it is unrealistic to wait up to eight years or more for military construction funding to be approved and an indoor facility to be built to resume SAR training, and traveling to off-base locations for training results in training delays, which would prevent the Navy from meeting its training mission.

The anchorage along the Zuniga Jetty is not affected by the final rule.

The majority of yacht and sailboat racing occurs within San Diego Bay and southeast of Zuniga Jetty. While some coordination between the U.S. Coast Guard and the NBC SAR would be necessary, no loss of organized yacht racing areas or sailing courses is expected.

#### **Administrative Requirements**

a. *Review Under Executive Order 12866.* This rule is issued with respect to a military function of the Department of Defense and the provisions of Executive Order 12866 do not apply.

b. *Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 et seq.* This rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The Corps determined that the impact of the new danger zone would not have a significant economic impact on a substantial number of small entities. For more detailed analysis of potential economic impacts of this rule, please see the regulatory analysis in the environmental assessment.

c. *Review Under the National Environmental Policy Act.* An environmental assessment (EA) has been prepared. We have concluded that the establishment of a danger zone off NBC will not have a significant impact to the quality of the human environment and, therefore, preparation of an

environmental impact statement is not required. The final EA and Finding of No Significant Impact may be reviewed at the Los Angeles District Office. Please contact Peggy Bartels at the phone number specified above for further information.

d. *Unfunded Mandates Reform Act.* This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Pub. L. 104-4, 109 Stat. 48, 2 U.S.C. 1501 *et seq.*). We have also found, under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this rule.

#### List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Transportation, Waterways.

■ For the reasons stated in the preamble, the Corps is amending 33 CFR part 334 to read as follows:

#### PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

■ 1. The authority citation for 33 CFR part 334 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

■ 2. Add § 334.866 to read as follows:

#### § 334.866 Pacific Ocean at Naval Base Coronado, in the City of Coronado, San Diego County, California; Naval Danger Zone.

(a) *The area.* A fan-shaped area extending westerly into the waters of the Pacific Ocean from a point on the beach of Naval Base Coronado, Coronado, California beginning at latitude 32°41'13" N, longitude 117°12'45" W; thence easterly, along the mean high water mark, to latitude 32°41'14" N, longitude 117°12'32" W; thence southerly to latitude 32°40'31" N, longitude 117°12'12" W; thence westerly to latitude 32°40'25" N, longitude 117°12'43" W; thence northerly, landward, to the point of origin.

(b) *The regulations.* (1) Range live firing on the Naval Base Coronado, Coronado, California small arms range may occur at any time. Information on live firing schedules and coordination for community concerns can be obtained by calling the Naval Base Coronado Small Arms Range Safety Officer at 619-545-8413 during normal working hours. Assistance is also available via the Naval Base Coronado Hotline at 619-545-7190 or the Naval Base Coronado operator at 619-545-1011. If the phone numbers are changed,

they will be updated on the Naval Base Coronado Web site <http://www.cnrc.navy.mil/Coronado>.

(2) The danger zone will be open to fishing and general navigation when no weapons firing is scheduled, which will be indicated by the absence of any warning flags or flashing lights on land in the locations specified in paragraphs (b)(3) and (b)(4) of this section.

(3) When live firing is about to be undertaken or is in progress during daylight hours, three (3) large red warning flags will be displayed at the top of the flag poles on the southern berm of the small arms range, so as to be clearly visible from all points of entry into the danger zone. The west flag pole is located on the southern berm at latitude 32°41'21.5" N, longitude 117°12'42.8" W, the middle flag pole is located at latitude 32°41'21.7" N, longitude 117°12'40.9" W, and the east flag pole is located at latitude 32°41'22.4" N, longitude 117°12'38.7" W.

(4) When live firing is about to be undertaken or is in progress during periods of darkness, three (3) red flashing warning lights will be displayed at the top of the flag poles on the southern berm of the small arms range at the locations described in paragraph (b)(3) of this section, so as to be clearly visible from all points of entry into the danger zone.

(5) The danger zone is not considered safe for vessels or individuals when live firing is in progress. When live firing is about to begin or is scheduled as indicated by the warning flags or flashing warning lights described in paragraphs (b)(3) and (b)(4) of this section, all vessels will be required to expeditiously vacate the danger zone.

(6) Anchoring by any vessel within the danger zone is prohibited.

(7) Prior to conducting live firing, Navy personnel will visually scan the danger zone to ensure that no vessels or individuals are located within it. Any vessels or individuals in the danger zone will be notified by the Navy Range Safety Officer using a marine VHF-FM marine radio and by other means as necessary, to exit the danger zone and remain outside the area until conclusion of live firing. As new technology becomes available, the VHF-FM marine radio communications system may be updated.

(8) Safety observers will be posted in accordance with range standard operating procedures at all times when the warning flags or flashing lights described in paragraphs (b)(3) and (b)(4) of this section are displayed. Operation of the small arms range will only occur when visibility is sufficient to maintain

visual surveillance of the danger zone and vicinity. In the event of limited visibility due to rain, fog or other conditions, live firing will be postponed until the danger zone can be confirmed clear of all vessels and individuals.

(9) Naval Base Coronado will maintain a schedule of live firing at the small arms range on its Web site, <http://www.cnrc.navy.mil/Coronado>, which will be accessible to the public, mariners, and recreationists. The Navy will maintain the Web site on a year round basis and update information as needed for public safety.

(c) *Enforcement.* The regulation in this section will be enforced by the Commanding Officer, Naval Base Coronado, and such agencies and persons as he/she may designate.

Dated: April 30, 2010.

Approved:

**Michael G.ensch,**

*Chief, Operations, Directorate of Civil Works.*

[FR Doc. 2010-11125 Filed 5-10-10; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R09-OAR-2010-0062; FRL-9141-3]

#### Approval and Promulgation of Implementation Plans, State of California, San Joaquin Valley Unified Air Pollution Control District, New Source Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action on revisions to the San Joaquin Valley Unified Air Pollution Control District portion of the California State Implementation Plan. Specifically, EPA is taking final action on three amended District rules, one of which was submitted on March 7, 2008 and the other two of which were submitted on March 17, 2009. Two of the submitted rules reflect revisions to approved District rules that provide for review of new and modified stationary sources ("new source review" or NSR) within the District, and the third reflects revisions to an approved District rule that provides a mechanism by which existing stationary sources may voluntarily limit their operations to avoid the requirement to secure a Federally-mandated operating permit. The NSR rule revisions relate to exemptions from permitting and offsets requirements for certain agricultural