

the COTP or a designated representative. They may be contacted on VHF-FM radio channel 13 and 16 or phone at 985-380-5373.

(2) Persons and vessels permitted to deviate from this special local regulation and enter the restricted area must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Informational broadcasts.* The COTP Morgan City or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the special local regulation as well as any changes in the dates and times of enforcement.

Dated: September 6, 2016.

**J.H. Miller,**

*Commander, U.S. Coast Guard, Acting Captain of the Port, Morgan City, Louisiana.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2016-0791]

RIN 1625-AA00

#### Safety Zone; Navy UNDET, Apra Outer Harbor, GU

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 700-yard radius on the surface and 1400-yard radius underwater of the Navy underwater detonation operations in the waters of Apra Outer Harbor, Guam. The Coast Guard believes this safety zone regulation is necessary to protect all persons and vessel that would otherwise transit or be within the affected areas from possible safety hazards associated with underwater detonation operations. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port Guam.

**DATES:** This rule is effective without actual notice from September 15, 2016 until September 16, 2016. For the purposes of enforcement, actual notice will be used from September 13, 2016, until September 15, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov), type USCG-2016-0791 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Chief Kristina Gauthier, Sector Guam, U.S. Coast Guard; telephone (671) 355-4866, email [Kristina.M.Gauthier@uscg.mil](mailto:Kristina.M.Gauthier@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the operation to publish an NPRM. Thus, delaying the effective dates of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect vessels and waterway users from the hazards associated with this operation.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Due to the late notice and inherent danger in underwater detonation exercises, delaying the effective period of this safety zone would be contrary to public interest.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Guam has determined that potential hazards associated with the U.S. Navy training

exercise, which include detonation of underwater explosives on September 13-16, 2016, will be a safety concern for anyone within a 700-yard radius on the surface and 1400-yard radius underwater of the operation. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the exercise. Mariners and divers approaching too close to such exercises could potentially expose themselves to flying debris or other hazardous conditions.

##### IV. Discussion of the Rule

The safety zone will cover all navigable waters within 700-yards on the surface and 1400-yards underwater of vessels and machinery being used by the Navy. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the underwater detonation exercise. No vessel or person will be permitted to enter the safety zones without obtaining permission from the COTP or a designated representative.

##### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive order related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

###### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of waters in Apra Outer Harbor for 8 hours. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 rule. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

### E. 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 (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.

### F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that 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 involves a safety zone lasting eight hours that will prohibit entry within 700-yards on the surface and 1400-yards underwater of vessels and machinery being used by Navy personnel. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are 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 rule.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### 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 amends 33 CFR part 165 as follows:

### PART 165—SAFETY ZONE; NAVY UNDET, APRA OUTER HARBOR, GU

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T14–0791 to read as follows:

#### § 165. T14–0791 Safety Zone; Navy UNDET, Apra Outer Harbor, GU.

(a) *Location.* The following areas, within the Guam Captain of the Port (COTP) Zone (See 33 CFR 3.70–15), from the surface of the water to the ocean floor, are safety zones:

*Apra Outer Harbor, Guam September 13–16, 2016.* All surface waters bounded by a circle with a 700-yard radius and all underwater areas bounded by a circle with a 1,400 yard radius centered at 13 degrees 27 minutes 42 seconds North Latitude and 144 degrees 38 minutes 30 seconds East Longitude, (NAD 1983).

(b) *Enforcement period.* This section will be enforced from 8 a.m. through 4 p.m. daily from September 13, 2016 through September 16, 2016.

(c) *Regulations.* The general regulations governing safety zones contained in 33 CFR 165.23 apply. No vessels may enter or transit safety zones and no persons in the water may enter or transit safety zone unless authorized by the COTP or a designated representative thereof.

(d) *Enforcement.* Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce these temporary safety zones.

(e) *Waiver.* The COTP may waive any of the requirements of this section for any person, vessel, or class of vessel upon finding that application of the

safety zone is unnecessary or impractical for the purpose of maritime security.

(f) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: August 17, 2016.

**James B. Pruett,**

*Captain, U.S. Coast Guard, Captain of the Port, Guam.*

[FR Doc. 2016-22228 Filed 9-14-16; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 46 CFR Part 106

[Docket No. USCG-2015-0086]

RIN 1625-AC23

### Requirements for Vessels With Registry Endorsements or Foreign-Flagged Vessels That Perform Certain Aquaculture Support Operations

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending its regulations to implement Subsection 901(c) of the Coast Guard Authorization Act of 2010, which grants the Secretary of the U.S. Department of Transportation (DOT) the authority to issue a waiver allowing a documented vessel with only a registry endorsement or a foreign-flagged vessel to be used in certain aquaculture operations. Specifically, those operations include the treatment and/or protection of aquaculture fish from disease, parasitic infestation, or other threats to their health. The new part establishes the requirement for an owner or operator of a vessel that is issued a waiver allowing the vessel to conduct aquaculture support operations by the Secretary of DOT to notify the Coast Guard that the vessel owner or operator has been issued such a waiver. The part also establishes operational and geographic requirements for vessels that are issued such a waiver.

**DATES:** This final rule is effective October 17, 2016.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG-2015-0086. To view public comments or documents mentioned in this preamble as being available in the docket, go to the Federal eRulemaking Portal at <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH."

Click on Open Docket Folder on the line associated with this rulemaking.

**FOR FURTHER INFORMATION CONTACT:** For information about this document, call or email Mr. David Belliveau, Fishing Vessels Division (CG-CVC-3), U.S. Coast Guard; telephone 202-372-1247, email [David.J.Belliveau@uscg.mil](mailto:David.J.Belliveau@uscg.mil).

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#### I. Abbreviations

BLS U.S. Bureau of Labor Statistics  
 CBP U.S. Customs and Border Protection  
 CFR Code of Federal Regulations  
 CGAA Coast Guard Authorization Act of 2010  
 COD Certificate of Documentation  
 DHS U.S. Department of Homeland Security  
 DOT U.S. Department of Transportation  
 E.O. Executive Order  
 FR Federal Register  
 MARAD Maritime Administration  
 NAICS North American Industry Classification System  
 NPRM Notice of proposed rulemaking  
 OMB Office of Management and Budget  
 Pub. L. Public Law  
 RA Regulatory Analysis  
 SNPRM Supplemental notice of proposed rulemaking  
 U.S.C. United States Code

#### II. Regulatory History

On July 30, 2015, we published a notice of proposed rulemaking (NPRM) entitled "Requirements for Vessels With Registry Endorsements or Foreign-Flagged Vessels That Perform Certain Aquaculture Support Operations" in the **Federal Register** (FR) (80 FR 45491). We received one submission with three comments on the proposed rule. No public meeting was requested and none was held.

#### III. Basis and Purpose

Under Title 46 of United States Code (U.S.C.) 12102(d)(1), the Secretary of the U.S. Department of Transportation (DOT) may issue an "Aquaculture

Support Operations Waiver" to allow a documented vessel with only a registry endorsement or a foreign-flagged vessel to be used in operations that treat aquaculture fish for or protect aquaculture fish from disease, parasitic infestation, or other threats to their health if the Secretary finds, after publishing a notice in the **Federal Register**, that a suitable vessel of the United States is not available to perform those services.<sup>1</sup>

In this final rule, the Coast Guard is amending 46 CFR subchapter I—Cargo and Miscellaneous Vessels, by adding a new part 106 that establishes the requirement for an owner or operator of a vessel that is issued an Aquaculture Support Operations Waiver by the Maritime Administration (MARAD),<sup>2</sup> for the purpose of conducting certain aquaculture support operations, to notify the Coast Guard that such a waiver has been issued. This new part also establishes operational and geographic requirements for a vessel that is issued such a waiver.

#### IV. Background

On May 27, 2010, U.S. Customs and Border Protection (CBP) ruled that aquaculture activities constitute "engag[ing] in the fisheries," and is thus within the meaning of 46 U.S.C. 108, for which a vessel must possess a Certificate of Documentation (COD) endorsed pursuant to 46 U.S.C. 12113 (see CBP ruling HQ H105735).<sup>3</sup> Title 46 U.S.C. 12113 limits employment in the fisheries to a vessel issued a COD with a fishery endorsement. This effectively disqualifies any foreign-flagged vessel from carrying out these activities.

Section 901 of the Coast Guard Authorization Act of 2010 (CGAA) (Pub. L. 111-281) amended 46 U.S.C. 12102 by adding subsection (d). Pursuant to 46 U.S.C. 12102(d)(1), the Secretary of DOT may issue an Aquaculture Support Operations Waiver allowing a documented vessel with a registry endorsement or a foreign-flagged vessel to be used in operations that treat or protect aquaculture fish from disease,

<sup>1</sup> These services are generally performed by "wellboats" (commonly understood as fishing and housing facility vessels) that pump fish out of their pens and into the vessels' fish holds. The fish hold is full of sea water and while the fish are inside the fish hold, a metered dose of de-lousing chemical is added to the fish hold. The water is then circulated vigorously to ensure complete mixing of the de-lousing agent. Upon completion of the treatment cycle, the fish are returned to their pens.

<sup>2</sup> On October 14, 2014, the Secretary of Transportation delegated the authority to administer paragraph 901(c)(1) of the CGAA to the Maritime Administrator, MARAD.

<sup>3</sup> This ruling is available online from CBP by going to <http://rulings.cbp.gov>, entering "HQ H105735" in the "Search" box and clicking "Go".