

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165****[COTP Los Angeles-Long Beach 01-013]****RIN 2115-AA97****Security Zone; Port Hueneme Harbor, Ventura County, CA****AGENCY:** Coast Guard, DOT.**ACTION:** Temporary final rule; change in effective period.

SUMMARY: The Coast Guard is revising the effective period for a temporary security zone covering all waters within Port Hueneme Harbor in Ventura County, CA. This security zone is needed for national security reasons to protect the Naval Base Ventura County and the commercial port from potential subversive acts. Entry into this zone is prohibited unless specifically authorized by the Capitan of the Port Los Angeles-Long Beach, the Commanding Officer, Naval Base Ventura County, or their designated representatives.

DATES: The amendment to § 165.T11-060 (c) in this rule is effective June 14, 2002. Section 165.T11-060, added at 67 FR 1099, January 9, 2002, effective from 12:01 a.m. PST on December 21, 2001, to 11:59 p.m. PDT on June 15, 2002, as amended by this rule is extended in effect through June 15, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket COTP Los Angeles-Long Beach 01-013 and are available for inspection or copying at Coast Guard Marine Safety Office Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Rob Griffiths, Chief of Waterways Management, at (310) 732-2020.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

On January 9, 2002, we published a temporary final rule for Port Hueneme Harbor entitled "Security Zone; Port Hueneme Harbor, Ventura County, California" in the **Federal Register** (67 FR 1097) under § 165.T11-060. The effective period for this rule was from December 21, 2001, through June 15, 2002.

We did not publish a notice of proposed rulemaking (NPRM) for this

regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the terrorist attacks on September 11, 2001 and the warnings given by national security and intelligence officials, there is an increased risk that further subversive or terrorist activity may be launched against the United States. A heightened level of security has been established around naval facilities. The original TFR was urgently required to prevent possible terrorist strikes against the United States and more specifically the people, waterways, and properties in Port Hueneme Harbor and the Naval Base Ventura County. It was anticipated that we would assess the security environment at the end of the effective period to determine whether continuing security precautions were required and, if so, propose regulations responsive to existing conditions. We have determined the need for continued security regulations exists.

The Coast Guard has determined that designation of a restricted area by the Army Corps of Engineers (ACOE) under 33 CFR 334 is a more appropriate regulation in this case. A formal request has been submitted by the U.S. Navy to ACOE in order to begin public notice. The ACOE will utilize the extended effective period of this TFR to engage in notice and comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment. This TFR preserves the status quo within the harbor while permanent rules are developed.

For the reasons stated in the paragraphs above under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

On September 11, 2001, terrorists launched attacks on commercial and public structures—the World Trade Center in New York and the Pentagon in Arlington, Virginia—killing large numbers of people and damaging properties of national significance. There is an increased risk that further subversive or terrorist activity may be launched against the United States based on warnings given by national security and intelligence officials. The Federal Bureau of Investigation (FBI) has issued warnings on October 11, 2001 and February 11, 2002 concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan have made it prudent for important facilities and vessels to be on a higher state of alert because Osama

Bin Laden and his Al Qaeda organization, and other similar organizations, have publicly declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

These heightened security concerns, together with the catastrophic impact that a terrorist attack against a Naval Facility would have to the public interest, makes these security zones prudent on the navigable waterways of the United States. To mitigate the risk of terrorist actions, the Coast Guard has increased safety and security measures on the navigable waterways of U.S. ports and waterways as further attacks may be launched from vessels within the area of Port Hueneme Harbor and the Naval Base Ventura County.

In response to these terrorist acts, to prevent similar occurrences, and to protect the Naval Facilities at Port Hueneme Harbor and the Naval Base Ventura County, the Coast Guard will extend the period of this security zone in all waters within Port Hueneme Harbor. This security zone is necessary to prevent damage or injury to any vessel or waterfront facility, and to safeguard ports, harbors, or waters of the United States in Port Hueneme Harbor, Ventura County CA.

As of today, the need for a security zone in Port Hueneme Harbor still exists. This temporary final rule will extend the Port Hueneme security zone issued December 21, 2001 to June 15, 2003. This will allow the Army Corps of Engineers to utilize the extended effective period of this TFR to engage in notice and comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment. This revision preserves the status quo within the Port Hueneme Harbor while permanent rules are developed.

Discussion of Rule

This regulation that is extending the current security zone, prohibits all vessels from entering Port Hueneme Harbor, beyond the COLREGS demarcation line set forth in Subpart 80.1120 of Part 80 of Title 33 of the Code of Federal Regulations, without first filing a proper Advance Notification of Arrival as required by part 160 of title 33 of the Code of Federal Regulations as well as obtaining clearance from Commanding Officer, Naval Base Ventura County "Control 1".

This security zone is established pursuant to the authority of the Magnuson Act regulations promulgated by the President under 50 U.S.C. 191, including subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations. Vessels or persons

violating this section are subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel, a monetary penalty of not more than \$10,000, and imprisonment for not more than 10 years.

This rule will be enforced by the Captain of the Port Los Angeles-Long Beach, who may also enlist the aid and cooperation of any Federal, State, county, municipal, and private agencies to assist in the enforcement of this rule. Commanding Officer, Naval Base Ventura County "Control 1" will control vessel traffic entering Port Hueneme Harbor.

Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979) because this zone will encompass a small portion of the waterway.

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.

For the same reasons stated in the section above, 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.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), 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. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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).

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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are establishing a security zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports 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. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. In temporary § 165.T11-060, revise paragraph (c) to read as follows:

§ 165.T11-060 Security Zone; Port Hueneme Harbor, Ventura County, California.

* * * * *

(c) *Effective period.* This section is effective from 12:01 a.m. PDT on December 21, 2001, until 11:59 p.m. PDT on June 15, 2003.

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Dated: June 11, 2002.

J.M. Holmes,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.

[FR Doc. 02-15386 Filed 6-17-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 19 and 27

[FRL-7231-7]

Civil Monetary Penalty Inflation Adjustment Rule

AGENCY: Environmental Protection Agency (EPA)

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is taking direct final action on amending the final Civil Monetary Penalty Inflation Adjustment Rule as mandated by the Debt Collection Improvement Act of 1996 to adjust EPA's civil monetary penalties ("CMPs") for inflation on a periodic basis. The Agency is required to review its penalties at least once every four years and to adjust them as necessary for inflation according to a specified formula. A complete version of Table 1 from the regulatory text, which lists all of the EPA's civil monetary penalty authorities, appears near the end of this document.

DATES: This rule is effective August 19, 2002 without further notice, unless EPA receives adverse comment by July 18, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC-2001-008, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 2201A, Washington, DC 20460 (in triplicate, if possible). Please use a font size no smaller than 12. Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection

Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Comments may also be submitted electronically to *docket.oeca@epa.gov* or faxed to (202) 501-1011. Attach electronic comments as an ASCII (text) file, and avoid the use of special characters and any form of encryption. Be sure to include the docket number, EC-2001-008 on your document. Public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Persons interested in reviewing this docket may do so by calling (202) 564-2614 or (202) 564-2119.

FOR FURTHER INFORMATION CONTACT:

David Abdalla, Office of Regulatory Enforcement, Multimedia Enforcement Division, Mail Code 2248A, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, (202) 564-2413.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 note, ("DCIA"), each Federal agency is required to issue regulations adjusting for inflation the maximum civil monetary penalties that can be imposed pursuant to such agency's statutes. The purpose of these adjustments is to maintain the deterrent effect of CMPs and to further the policy goals of the laws. The DCIA requires adjustments to be made at least once every four years following the initial adjustment. The EPA's initial adjustment to each CMP was published in the **Federal Register** on December 31, 1996, at 61 FR 69360 and became effective on January 30, 1997.

This direct final rule adjusts the amount for each type of CMP that EPA has jurisdiction to impose in accordance with these statutory requirements. It does so by revising the table contained in 40 CFR 19.4. The table identifies the statutes that provide EPA with CMP authority and sets out the inflation-adjusted maximum penalty that EPA may impose pursuant to each statutory provision. This direct final rule also revises the effective date provisions of 40 CFR 19.2 to make the penalty amounts set forth set forth in 40 CFR 19.4 apply to all violations under the applicable statutes and regulations which occur after August 19, 2002

without further notice unless we receive adverse comment.

The DCIA requires that the adjustment reflect the percentage increase in the Consumer Price Index between June of the calendar year preceding the adjustment and June of the calendar year in which the amount was last set or adjusted. The DCIA defines the Consumer Price Index as the Consumer Price Index for all urban consumers published by the Department of Labor ("CPI-U"). As the initial adjustment was made and published on December 31, 1996, the inflation adjustment for the CMPs was calculated by comparing the CPI-U for June 1996 (156.7) with the CPI-U for June 2001 (178), resulting in an inflation adjustment of 13.6 percent. In addition, the DCIA's rounding rules require that an increase be rounded to the nearest multiple of: \$10 in the case of penalties less than or equal to \$100; \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000; \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000; \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000; \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and \$25,000 in the case of penalties greater than \$200,000.

The amount of each CMP was multiplied by 13.6 percent (the inflation adjustment) and the resulting increase amount was rounded up or down according to the rounding requirements of the statute. The increase amount is rounded using a rounding rule based on the amount of the increase. For example, for a CMP of \$27,500, the increase of \$3,740 would be rounded to the nearest multiple of \$1000 resulting in a total increase of \$4000. The table below shows the inflation-adjusted CMPs and includes only the CMPs as of the effective date of this rule. EPA intends to readjust these amounts in the year 2005 and every four years thereafter, assuming there are no further changes to the mandate imposed by the DCIA.

Administrative Requirements

EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. This rule incorporates requirements specifically set forth in the DCIA requiring EPA to issue a regulation implementing inflation adjustments for all its civil penalty provisions. These technical changes, required by law, do not substantively alter the existing regulatory framework nor in any way