

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 contains 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 affect 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 concern 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 analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2. of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph 32(e), of the Instruction, from further documentation.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

■ For the reasons set out in the preamble, the Coast Guard is amending Part 117 of Title 33, Code of Federal Regulations, as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. Sec. 499; 33 CFR 1.05-1(g); Department of Homeland Security Delegation No. 0170.1; section 117.255 also

issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. Effective 12:01 a.m., December 17, 2003, through 9 a.m., March 15, 2004, § 117.T408 is added to read as follows:

#### § 117.T408 Upper Mississippi River.

Illinois Central Railroad Drawbridge, Mile 579.9, Upper Mississippi River. From 12:01 a.m., December 17, 2003 through 9 a.m., March 15, 2004, the drawspan requires 24 hours advance notice for bridge operation. Bridge opening requests must be made 24 hours in advance by calling the Canadian National/Illinois Central Dispatcher's office at (800) 711-3477 at any time or Mr. Mike McDermott, office (319) 236-9238 or cell phone (319) 269-2102.

Dated: December 19, 2003.

**R.F. Duncan,**

*Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.*

[FR Doc. 04-53 Filed 1-2-04; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Los Angeles-Long Beach 01-013]

RIN 1625-AA00

#### Security Zone; Port Hueneme Harbor, Ventura County, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule; change in effective period; request for comments.

**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 Naval Base Ventura County and commercial port from potential subversive acts. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port Los Angeles-Long Beach, the Commanding Officer of Naval Base Ventura County, or their designated representatives.

**DATES:** Effective December 15, 2003. 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, extended June 10, 2003, at 68 FR 36747, June 19, 2003, until 11:59 p.m. PST on December 15, 2003, as amended by this

rule is effective through June 15, 2004. Comments and related material must reach the Coast Guard on or before February 4, 2004.

**ADDRESSES:** You may mail comments and related material to docket COTP Los Angeles-Long Beach 01-013, U.S. Coast Guard Marine Safety Office/Group Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731. The Marine Safety Office/Group Los Angeles-Long Beach, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying this address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Ryan Manning, Chief of Waterways Management Division, at (310) 732-2020.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to comment on this rule. If you submit comments and related material, please include your name and address, identify the docket number for this rulemaking (COTP Los Angeles-Long Beach 01-013), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

**Regulatory Information**

On January 9, 2002, we published a temporary final rule for Port Hueneme Harbor entitled "Security Zone; Port Hueneme Harbor, Ventura County, CA" 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.

On June 18, 2002, we published a temporary final rule for Port Hueneme Harbor entitled "Security Zone; Port Hueneme Harbor, Ventura County, CA" in the **Federal Register** (67 FR 41341) under § 165.T11-060. The effective period was extended through June 15, 2003. On June 10, 2003, the Captain of the Port issued another temporary final rule extending the effective period until

11:59 p.m. PST on December 15, 2003 (68 FR 36745, June 19, 2003).

This temporary final rule further extends the effective period through June 15, 2004.

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 part 334 is a more appropriate regulation in this case. On January 13, 2003, ACOE published a notice of proposed rulemaking for Port Hueneme Harbor entitled "United States Navy Restricted Area, Naval Base Ventura County, Port Hueneme, CA" in the **Federal Register** (68 FR 1791) under 33 CFR 334.1127. The ACOE will utilize the extended effective period of this TFR to issue a final rule. This TFR preserves the status quo within the harbor while a permanent restricted area is implemented.

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 Iraq and Afghanistan have made it prudent for important facilities and vessels to be on a higher state of alert because Osama Bin Ladin 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 has established a 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 current effective date of the current Port Hueneme security zone through June 15, 2004. This will allow the Army Corps of Engineers to utilize the extended effective period of this TFR to complete notice and comment rulemaking for 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 finalized.

**Discussion of Rule**

This regulation that is extending the effective period of 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".

In addition to revising paragraph (c) to extend the effective period of § 165.T11-060, we have also revised paragraph (b). Specifically, in § 165.T11-060(b)(1)(ii) we replaced references to temporary notification of arrival requirements with the corresponding permanent sections in 33 CFR part 160.

Vessels or persons violating this section would be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the rule described herein, would be punishable by civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation would be a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of \$250,000) and in rem liability against the offending vessel. Any person violating this section by using a dangerous weapon or by engaging in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation would also face imprisonment up to 12 years. Vessels or persons violating this section would also be subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel to the United States, a maximum criminal fine of \$10,000, and imprisonment up to 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. This regulation is established under the authority of 33 U.S.C. 1226 in addition to the authority contained in 50 U.S.C. 191 and 33 U.S.C. 1231.

### 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 Homeland Security (DHS) 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.

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 because this zone will encompass a small portion of the waterway.

### 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. 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.

## Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone.

A final “Environmental Analysis Check List” and a final “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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 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. Section 165.T11–060 is reinstated and revised to read as follows:

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

(a) *Location.* The following area is a Security Zone: The water area of Port Hueneme Harbor inside of the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS) demarcation line.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, the following rules apply to the security zone established by this section:

(i) No person or vessel may enter or remain in this security zone without the permission of the Captain of the Port Los Angeles-Long Beach, CA, or the Commanding Officer, Naval Base Ventura County CA, “Control 1,”;

(ii) Vessels that are required to make advanced notifications of arrival under §§ 160.204 through 160.214 of part 160 of Title 33 of the Code of Federal

Regulations continue to make such reports;

(iii) All vessels must obtain clearance from “Control 1” on VHF–FM marine radio 06 prior to crossing the COLREGS demarcation line at Port Hueneme Harbor;

(iv) Vessels without marine radio capability must obtain clearance in advance by contacting “Control 1” via telephone at (805) 982–3938 prior to crossing the COLREGS demarcation line at Port Hueneme Harbor;

(2) The Captain of the Port will notify the public of this Security Zone via broadcast and published notice to mariners.

(3) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from complying with the rules of the road and safe navigation practice.

(4) The regulations of this section will be enforced by the Captain of the Port Los Angeles-Long Beach, the Commanding Officer, Naval Base Ventura County or their authorized representatives.

(c) *Effective period.* This section is effective from 12:01 a.m. PST on December 21, 2001, through June 15, 2004.

Dated: December 15, 2003.

**Peter V. Neffenger,**

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

[FR Doc. 04–30 Filed 1–2–04; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### 33 CFR Part 334

#### United States Navy Restricted Area, Hood Canal, Naval Submarine Base Bangor, Bangor, WA

**AGENCY:** United States Army Corps of Engineers, Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** The Corps of Engineers is amending existing regulations to expand the existing restricted area in the waters of Hood Canal adjacent to Naval Submarine Base Bangor, at Bangor, Washington. This amendment also changes the enforcement responsibility from Commander, Naval Base, Seattle, Washington (now Commander, Navy Region Northwest) to Commander, Naval Submarine Base Bangor. The purpose of the amendment is to increase the protection of Navy strategic assets

moored at Naval Submarine Base Bangor.

**EFFECTIVE DATE:** February 4, 2004.

**ADDRESSES:** U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington DC, 20314–1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frank Torbett, Headquarters Regulatory Branch at (202) 761–4618 or Mr. Jack Kennedy, Corps of Engineers Seattle District, at (206) 764–6907.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX of the Army Appropriation Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps is amending the restricted area regulations in 33 CFR part 334 by amending § 334.1220 to enlarge the presently established naval restricted Area 1, in Hood Canal, adjacent to Naval Submarine Base Bangor, at Bangor, Washington.

### Procedural Requirements

#### a. Review Under Executive Order 12866

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

#### b. Review Under the Regulatory Flexibility Act

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 expects that the economic impact of the enlargement of this restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic, and accordingly, certifies that this proposal will have no significant economic impact on small entities.

#### c. Review Under the National Environmental Policy Act

The Seattle District has prepared an Environmental Assessment (EA) for this action. The District has concluded that this action will not have a significant impact on the quality of the human environment, and preparation of an Environmental Impact Statement is not required. The EA may be reviewed at the Seattle District Office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.