

**Executive Order 13132**

This final rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 13132.

**Paperwork Reduction Act**

The collection-of-information in this final rule has been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). OMB approved the information collection under control number 0608-0034.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid OMB control number.

The BE-15 survey is expected to result in the filing of reports from approximately 3,650 U.S. affiliates of foreign direct investors. The respondent burden for this collection of information is expected to vary from 20 minutes for the smallest and least complex company reporting on the BE-15 Claim for Exemption to 470 hours for the largest and most complex company reporting on Form BE-15A, with an average burden of 18.8 hours per response. Thus, the total respondent burden for this survey—including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information—is estimated at 68,750 hours (3,650 responses times 18.8 hours average burden). Total respondent burden for the previous (2006) annual survey was estimated at 107,900 hours. The decrease in respondent burden is due to (1) increased reporting thresholds, which reduce the total number of respondents and allow more respondents to file on shorter forms, (2) increased use of sampling, which allows BE-15(EZ) filers to submit forms only in alternate years, and (3) a reduction in the number of data items on the form, which reduces the average burden per form.

Comments regarding the burden-hour estimates or any other aspect of the collection-of-information requirements contained in the final rule should be sent to (1) The Bureau of Economic Analysis via mail to U.S. Department of Commerce, Bureau of Economic Analysis, Office of the Chief, Direct Investment Division, BE-50, Washington, DC 20230; via e-mail at

*David.Galler@bea.gov*; or by FAX at (202) 606-5311 and (2) the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608-0034, Attention PRA Desk Officer for BEA, via e-mail at *pbugg@omb.eop.gov*, or by FAX at (202) 395-7245.

**Regulatory Flexibility Act**

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this rule will not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding the economic impact of the rule. As a result, no final regulatory flexibility analysis was prepared.

**List of Subjects in 15 CFR Part 806**

Economic statistics, Foreign investment in the United States, International transactions, Penalties, Reporting and recordkeeping requirements.

**J. Steven Landefeld,**

*Director, Bureau of Economic Analysis.*

■ For the reasons set forth in the preamble, BEA amends 15 CFR part 806 as follows:

**PART 806—DIRECT INVESTMENT SURVEYS**

■ 1. The authority citation for 15 CFR Part 806 continues to read as follows:

**Authority:** 5 U.S.C. 301; 22 U.S.C. 3101-3108; E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12318 (3 CFR, 1981 Comp., p. 173) and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

■ 2. Section 806.15(i) is revised to read as follows:

**§ 806.15 Foreign direct investment in the United States.**

\* \* \* \* \*

(i) *Annual report form.* BE-15—Annual Survey of Foreign Direct Investment in the United States: One report is required for each consolidated U.S. affiliate exceeding an exemption level of \$40 million. Form BE-15A must be filed by each majority-owned U.S. affiliate (a “majority-owned” U.S. affiliate is one in which the combined direct and indirect ownership interests of all foreign parents of the U.S. affiliate exceed 50 percent) for which at least one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income

after provision for U.S. income taxes—exceeds \$275 million (positive or negative). Form BE-15B must be filed by each majority-owned U.S. affiliate for which at least one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes—exceeds \$120 million (positive or negative) but no one item exceeds \$275 million (positive or negative), and by each minority-owned U.S. affiliate (a “minority-owned” U.S. affiliate is one in which the combined direct and indirect ownership interest of all foreign parents of the U.S. affiliate is 50 percent or less) for which at least one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes—exceeds \$120 million (positive or negative). Form BE-15(EZ) must be filed every other year by each U.S. affiliate for which at least one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes—exceeds \$40 million (positive or negative) but no one item exceeds \$120 million (positive or negative). U.S. affiliates will be mailed Form BE-15(EZ) in years when they are required to file; in alternate years, these U.S. affiliates will be mailed a letter confirming that they are not required to file and asking them to update their contact information with BEA. A BE-15 Claim for Exemption must be filed by each U.S. affiliate to claim exemption from filing a BE-15A, BE-15B, or BE-15(EZ). Following an initial filing, the BE-15 Claim for Exemption is not required annually from those U.S. affiliates that meet the stated exemption criteria from year to year.

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket No. USCG-2008-1198]

RIN 1625-AA00

**Safety Zone: Route 5 Bridge Demolition, Chickahominy River, Charles City County and James City County, VA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Chickahominy River in the vicinity of Charles City County and James City County, VA in support of the demolition of the Route 5 Bridge over the Chickahominy River. This action will protect the maritime public on the Chickahominy River from the hazards associated with bridge demolition and explosive blasting.

**DATES:** This rule is effective from 7 a.m. on March 4, 2009 to 6 p.m. on March 6, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2008–1198 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2008–1198 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at two locations: the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Commander, Sector Hampton Roads, Norfolk Federal Building, 200 Granby St., 7th Floor between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call Lieutenant Tiffany Duffy, Chief, Waterways Management Division, Sector Hampton Roads at (757) 668–5580. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

The Coast Guard is issuing this temporary final 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 any delay encountered in this regulation’s effective date by publishing a NPRM

would be contrary to public interest since immediate action is needed to provide for the safety of life and property on navigable waters.

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

##### **Background and Purpose**

Coast Guard Sector Hampton Roads has been notified by Skanska USA Civil Southeast Inc. that blasting operations to demolish the Route 5 Bridge swing span piers over the Chickahominy River will commence on March 4, 2009. Due to the need to protect mariners and spectators from the hazards associated with the blasting procedures, access to the Chickahominy River within 2,000 feet of the blast site within the above-mentioned designated area will be temporarily restricted.

##### **Discussion of Rule**

The Coast Guard is establishing a safety zone on specified waters of the Chickahominy River at the approximate position 37°15′49″ N/76°52′35″ W (NAD 1983), in the vicinity of Charles City County and James City County, VA. This safety zone will encompass all navigable waters within 2,000 feet of the Route 5 Bridge. This regulated area will be established in the interest of public safety during the blasting demolition of the Route 5 Bridge and will be in place from 7 a.m. on March 4, 2009 to 6 p.m. on March 6, 2009, or until completion of the explosive blasting, whichever is sooner. Access to the safety zone will be restricted during the specified dates. The safety zone will be enforced two hours before explosive blasting begins and remain in place for two hours after the explosive blasting. Two hours before explosive blasting begins, a one minute series of long audible signals will sound every 30 minutes. Thirty minutes before the explosive blasting, a one minute series of long audible signals will sound every five minutes. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

##### **Regulatory Analyses**

We developed this 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 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. Although this proposed regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly; (iv) mariners may be able to gain entrance to the safety zone by contacting the Captain of the Port.

##### **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.

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. The safety zone will only be in place for a limited duration. Maritime advisories will be issued allowing the mariners to adjust their plans accordingly. However, this rule may affect the following entities, some of which may be small entities: owners and operators of vessels intending to transit or anchor in that portion of the Chickahominy River from 7 a.m. on March 4, 2009 to 6 p.m. on March 6, 2009.

##### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

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.

#### 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.

#### 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 0023.1 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 under the Instruction 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. An environmental analysis checklist and a categorical exclusion determination will be 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.T05-1198 to read as follows:

#### § 165.T05-1198 Safety Zone: Route 5 Bridge Demolition, Chickahominy River, Charles City County and James City County, VA.

(a) *Regulated Area.* The following area is a safety zone: All waters of the Chickahominy River, located within 2,000 feet of the Route 5 Bridge at the approximate position 37°15'49" N/76°52'35" W (NAD 1983), in the vicinity of Charles City County and James City County, VA.

(b) *Definition.* For the purposes of this part, Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia, to act on his behalf.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia, at telephone Number (757) 668-5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF-FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) Enforcement Period: This regulation will be enforced from 7 a.m. on March 4, 2009, to 6 p.m. on March 6, 2009.

Dated: February 4, 2009.

**Patrick B. Trapp,**

*Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0046]

RIN 1625-AA00

#### Safety Zone; Naval Underwater Detonation; Northwest Harbor, San Clemente Island, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the navigable waters of the Northwest Harbor of San Clemente Island in support of the Naval Underwater Detonation. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the training activity. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port (COTP) or his designated representative.

**DATES:** This rule is effective from February 1, 2009 through April 1, 2009.

**ADDRESSES:** Comments and materials received from the public, as well as documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0046 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-

2009-0046 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: The 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the U.S. Coast Guard Sector San Diego, 2710 N. Harbor Dr., San Diego, CA 92101 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call Petty Officer Kristen Beer, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at (619) 278-7262. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

The Coast Guard is issuing this temporary final 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 immediate action is necessary to ensure the safety of commercial and recreational vehicles in the vicinity of the Naval Underwater Detonation on the dates and times this rule will be in effect and delay would be contrary to the public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the public's safety. Any delay in the effective date of this rule would expose mariners to the dangers posed by the detonation of underwater explosives.

##### Background and Purpose

The Officer in Charge (OIC) of the Southern California Offshore Range will be conducting intermittent training

involving the detonation of military grade explosives underwater throughout February and March 2009. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the training activity.

##### Discussion of Rule

The Coast Guard is establishing a safety zone that will be enforced from February 1, 2009 through April 1, 2009. The limits of the safety zone will be the navigable waters of the Northwest Harbor of San Clemente Island bounded by the following coordinates: 33°02'06" N, 118°35'36" W; 33°02'00" N, 118°34'36" W; thence along San Clemente shoreline to 33°02'06" N, 118°35'36" W. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the training activities. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

##### Regulatory Analyses

We developed this 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 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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size and location of the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times while training is being conducted.

##### 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