

### 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 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves establishing, disestablishing, or changing Regulated Navigation Areas and security or safety zones.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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. Add temporary § 165-T11.207 to read as follows:

#### **§ 165-T11.207 Safety Zone; Fireworks Display at the Craneway Building, Richmond, CA.**

(a) *Location.* This temporary safety zone is established for the waters off Richmond, CA. The fireworks launch site will be located in position 37°54' 26.99" N, 122°21' 39.31" W (NAD 83).

During the loading of the fireworks onto the barge, and until the start of the

fireworks display, the temporary safety zone applies to the navigable waters around the fireworks site within a radius of 100 feet. From 9:30 p.m. until 10:15 p.m. on August 21, 23, 25, & 27, 2009, the area to which the temporary safety zone applies will increase in size to encompass the navigable waters around the fireworks site within a radius of 1,000 feet.

(b) *Definitions.* As used in this section, "designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

(c) *Regulations.*

(1) Under the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the designated representative. Persons and vessels may request permission to enter the safety zone on VHF-16 or through the 24-hour Command Center at telephone (415) 399-3547.

(d) *Effective period.* This section is effective from 12:45 p.m. through 10:15 p.m. on August 21, 23, 25, & 27, 2009.

Dated: June 29, 2009.

**P.M. Gugg,**

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

[FR Doc. E9-16683 Filed 7-14-09; 8:45 am]

**BILLING CODE 4910-15-P**

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 165**

[Docket No. USCG-2009-0568]

RIN 1625-AA00

#### **Safety Zone; James River, Navy Live Fire and Explosive Training**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone encompassing the M/V Del Monte. This safety zone will restrict vessel traffic on a portion of the James River within a 1,500-foot radius of the M/V Del Monte. This action is intended to restrict vessel traffic movement in the vicinity of the James River Reserve Fleet to protect mariners from the hazards associated with live fire and explosive training events.

**DATES:** This rule is effective from 8 a.m. on July 30, 2009, to 11 p.m. on August 8, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–0568 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–2009–0568 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 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail LT Tiffany Duffy, Chief Waterways Management, Sector Hampton Roads, Coast Guard; telephone 757–668–5580, e-mail [tiffany.a.duffy@uscg.mil](mailto:tiffany.a.duffy@uscg.mil). 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 delaying the effective date would be contrary to the public interest since immediate action is needed to ensure

the public’s safety during the Navy’s live fire and explosive training event.

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 during the Navy’s live fire and explosive training event.

**Background and Purpose**

Coast Guard Sector Hampton Roads has been notified that the U.S. Navy will conduct a live fire and explosive training event onboard the M/V Del Monte in the vicinity of the James River Reserve Fleet. The event is scheduled to take place from July 30, 2009, to August 8, 2009. Due to the need to protect mariners transiting on James River in the vicinity of the exercise from the hazards associated with live fire and explosive events, the Coast Guard is establishing a safety zone bound by a 1,500-foot radius around approximate position 37°06’11” N/076°38’40” W (NAD 1983). Access to this area will be temporarily restricted for public safety purposes.

**Discussion of Rule**

The Coast Guard is establishing a 1,500-foot radius safety zone on specified waters of James River around approximate position 37°06’11” N/076°38’40” W (NAD 1983) in the vicinity of the James River Reserve Fleet. This safety zone is being established in the interest of public safety during the live fire and explosive training exercise and will be enforced from 8 a.m. to 11 p.m. on July 30, 2009, to August 8, 2009. Access to the safety zone will be restricted during the specified dates and times. Except for vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the safety zone.

**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 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. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

*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. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the James River from 8 a.m. to 11 p.m. from July 30, 2009, to August 8, 2009. This safety zone will not have a significant economic impact on a substantial number of small entities because the safety zone will only be in place for a limited duration. Before the effective period beginning July 30, 2009, maritime advisories will be issued allowing mariners to adjust their plans accordingly.

*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 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves a temporary safety zone that will be in effect for only ten days and is intended to keep mariners safe from

the hazards associated with live fire and explosive exercises. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

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

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6 and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0568 to read as follows:

#### **§ 165.T05–0568 Safety Zone; James River, Navy Live Fire and Explosive Training.**

(a) *Regulated Area.* The following area is a safety zone: All waters in the vicinity of the James River Reserve Fleet on the James River within a 1,500-foot radius of position 37°06′11″ N/076°38′40″ W (NAD 1983).

(b) *Definition:* For the purposes of this section, *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 757–638–6641.

(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 8 a.m. to 11 p.m. beginning July 30, 2009, to August 8, 2009.

Dated: July 2, 2009.

**M.S. Ogle,**

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

[FR Doc. E9-16829 Filed 7-14-09; 8:45 am]

BILLING CODE 4910-15-P

## POSTAL SERVICE

### 39 CFR Part 111

#### Price Marking Requirements for Commercial Base and Commercial Plus Pricing

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is implementing new price marking requirements on Express Mail® and Priority Mail® pieces mailed at commercial base and commercial plus prices. The new markings are needed to fulfill our revenue reporting and revenue assurance requirements.

**DATES:** *Effective Date:* November 2, 2009.

**FOR FURTHER INFORMATION CONTACT:** Monica Grein, 202-268-8411.

**SUPPLEMENTARY INFORMATION:** On April 3, 2009, the Postal Service published a **Federal Register** proposed rule (Volume 74, Number 63, pages 15226-15227) inviting comments on a revision to require price markings on Express Mail and Priority Mail pieces mailed at commercial base and commercial plus prices. We received two sets of comments. After reviewing those comments, and upon further consideration of the proposed revisions, the Postal Service has decided to adopt the proposed regulations with no revisions.

As noted in the **SUPPLEMENTARY INFORMATION** section of the proposed rule, the Postal Service is revising the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) to require price markings on Express Mail and Priority Mail pieces mailed at the commercial base or the commercial plus prices. The new markings will help us determine which price was applied to these pieces, and verify that the pieces qualify for the price claimed. The markings must appear on pieces paid by any means

except permit imprint or Express Mail Corporate Account.

Under this final rule, mailers must print or produce as part of the meter imprint or PC Postage® indicia—“Commercial Base Price,” “Commercial Base Pricing,” or “ComBasPrice,” for pieces paid at the Commercial Base price; and “Commercial Plus Price,” “Commercial Plus Pricing,” or “ComPlsPrice” for pieces paid at the Commercial Plus price. The appropriate marking must appear directly above, directly below, or to the left of the postage.

#### Evaluation of Comments Received

The Postal Service received two sets of comments. Both of the comments suggested that the Postal Service allow the markings “Express CBP” and “Priority CBP.” We have decided not to add these markings to the list of acceptable price markings because “Priority Mail” and “Express Mail” are trademarks owned by the Postal Service for expedited delivery services and expedited delivery packaging. The use of an incomplete trademark, *i.e.*, the single words “Priority” or “Express” on “Priority Mail” pieces or “Express Mail” pieces is unacceptable to the Postal Service.

One commenter also asked that we extend our effective date past the 90 days we proposed. Even though the Postal Service thinks 90 days is sufficient time to conform to this rule, mailers requiring additional time may submit a request for an exception to the Manager, Mailing Standards. Requests will be evaluated based on the circumstances of the individual mailer’s progress towards transition.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®), which is incorporated by reference in the Code of Federal Regulations. *See* 39 CFR 111.1.

#### List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR Part 111 is amended as follows:

#### PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR Part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001-3011, 3201-3219, 3403-3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States*

*Postal Service*, Domestic Mail Manual (DMM) as follows:

\* \* \* \* \*

#### 400 Commercial Parcels

\* \* \* \* \*

#### 402 Elements on the Face of a Mailpiece

\* \* \* \* \*

### 2.0 Placement and Content of Markings

[Renumber 2.1 through 2.5 as 2.2 through 2.6 and add new 2.1, Express Mail and Priority Mail Markings, as follows:]

#### 2.1 Express Mail and Priority Mail Markings

Except for pieces paid using permit imprint or an Express Mail Corporate Account, Express Mail and Priority Mail pieces claiming the commercial base or commercial plus price must bear the appropriate price marking, printed on the piece or produced as part of the meter imprint or PC Postage indicia. Place the marking directly above, directly below, or to the left of the postage. Markings are as follows: a. “Commercial Base Price,” “Commercial Base Pricing,” or “ComBasPrice.” b. “Commercial Plus Price,” “Commercial Plus Pricing,” or “ComPlsPrice.”

\* \* \* \* \*

#### 410 Express Mail

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#### 415 Mail Preparation

[Reorganize and revise section 1.0 by adding a new 1.2 as follows:]

### 1.0 General Information for Mail Preparation

#### 1.1 Express Mail Packaging Provided by the USPS

Express Mail packaging provided by the USPS must be used only for Express Mail. Regardless of how the packaging is reconfigured or how markings may be obliterated, any material mailed in USPS-provided Express Mail packaging is charged the appropriate Express Mail price.

#### 1.2 Price Marking

Except for pieces paid using an Express Mail Corporate Account, Express Mail pieces claiming the commercial base or commercial plus price must bear the appropriate price marking, printed on the piece or produced as part of the meter imprint or PC Postage indicia. Place the marking directly above, directly below, or to the left of the postage. Markings are as follows: