

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 100**

[Docket No. USCG–2009–0948]

RIN 1625–AB43

**Inland Navigation Rules; Correction****ACTION:** Final rule; correction.

**SUMMARY:** In the *Federal Register* published on April 15, 2010, the Coast Guard placed the Inland Navigation Rules into the Code of Federal Regulations. That publication contained an error in the “Discussion of the Rule” section. This error does not impact the regulations, but has caused confusion among some members of the public.

**DATES:** This correction is effective July 20, 2010.

**FOR FURTHER INFORMATION CONTACT:** For information about this correction, contact Kevin d’Eustachio, Office of Regulations and Administrative Law, telephone (202) 372–3854, e-mail kevin.m.deustachio@uscg.mil. For information about the original regulation, contact LT Scott Medeiros, Office of Vessel Activities (CG–54133), telephone (202) 372–1565 Scott.R.Medeiros@uscg.mil.

**SUPPLEMENTARY INFORMATION:** In FR doc 2010–8532 appearing on page 20294 in the issue of Thursday, April 15, 2010, the following corrections are made:

1. On page 19545, in the first column, in the three places that “§ 83.185” appears, remove the numbers “§ 83.185” and replace with “§ 83.38”.

Dated: July 14, 2010.

**Steve Venckus,**

*Office of Regulations and Administrative Law (CG–0943), U.S. Coast Guard.*

[FR Doc. 2010–17663 Filed 7–19–10; 8:45 am]

**BILLING CODE 9110–04–P**

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

[Docket No. USCG–2008–1017]

RIN 1625–AA11

**Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington; Amendment****AGENCY:** Coast Guard, DHS.**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is making a change to the Regulated Navigation Area (RNA) covering the Umpqua River Bar in Oregon so that it does not include those waters between “Navigation Aid Number 8” and “Navigation Aid Number 6” on the Umpqua River. The change has been requested by a number of individuals and organizations that believe they are able to safely use those waters when the bar is restricted or closed.

**DATES:** This rule is effective August 19, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–1017 and are available online by going to <http://www.regulations.gov>, inserting USCG–2008–1017 in the “Keyword” box, and then clicking “Search.” This material is 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 rule, call or e-mail LT Kion Evans, Thirteenth Coast Guard District Prevention Division; telephone 206–220–7232, e-mail [Kion.J.Evans@uscg.mil](mailto:Kion.J.Evans@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**

On April 12, 2010, we published a notice of proposed rulemaking (NPRM) entitled “Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington; Amendment” in the *Federal Register* (75 FR 18449). We received one comment on the proposed rule. No public meeting was requested and none was held.

**Basis and Purpose**

On November 17, 2009, the Coast Guard published a Final Rule entitled “Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington” in the *Federal Register* (74 FR 59098), which established Regulated Navigation Areas (RNA) covering each of the coastal bars in Oregon and Washington. Following implementation of the rule, as codified at 33 CFR 165.1325, on December 17, 2009, the Coast Guard began receiving feedback from a number of individuals and

organizations that use the waters near the Umpqua River Bar in Oregon indicating that the RNA covering that bar, as defined in 33 CFR

165.1325(a)(12), is too large in that they believe they are able to safely use the area between “Navigation Aid Number 8” and “Navigation Aid Number 6” in the Umpqua River when the bar is restricted or closed.

In light of the public desires expressed, the possible economic impact on the local community, and the Coast Guard’s assessment that mariners are, in most circumstances, able to safely operate between “Navigation Aid Number 8” and “Navigation Aid Number 6” on the Umpqua River when the bar is restricted or closed, the Coast Guard is changing the Umpqua River Bar RNA as defined in 33 CFR 165.1325(a)(12) to allow such use without obtaining permission of the Captain of the Port or his/her designated representatives.

**Discussion of Comments and Changes**

The one comment received on the proposed rule expressed concern that the location of the RNA as described in the regulatory text did not align with the description given in the preamble, specifically with regards to “Navigation Aid Number 6.” The rule was changed to correct that inconsistency.

**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. The Coast Guard has made this determination based on the fact that this rule simply reduces the size of an established Regulated Navigation Area.

**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 those small entities that use the waters near the Umpqua River Bar. The rule would not have a significant economic impact on a substantial number of small entities, however, because it simply reduces the size of an established Regulated Navigation Area.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM 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.

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 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not cause 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 that 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 the reduction in size of a Regulated Navigation Area. Under figure 2–1, paragraph (34)(g), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

#### 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(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. Amend § 165.1325 by revising paragraph (a)(12) to read as follows:

**§ 165.1325 Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington.**

(a) \* \* \*

(12) Umpqua River Bar, Oreg.: From a point on the shoreline at 43°41'20" N., 124°11'58" W. thence westward to 43°41'20" N., 124°13'32" W thence southward to 43°38'35" N., 124°14'25" W. thence eastward to a point on the shoreline at 43°38'35" N., 124°12'35" W. thence northward along the shoreline to the navigational light "6" located on the jetty at 43°40'11" N., 124°11'56" W. thence northward to a point on the north bank of the entrance channel at 43°40'33" N., 124°11'56" W. thence southwestward along the north bank of the entrance channel thence northward along the seaward shoreline to the beginning.

\* \* \* \* \*

Dated: July 7, 2010.

G.T. Blore,

Rear Admiral, U.S. Coast Guard, Commander,  
Thirteenth Coast Guard District.

[FR Doc. 2010-17665 Filed 7-19-10; 8:45 am]

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## POSTAL SERVICE

### 39 CFR Part 111

#### Content of Periodicals Mail

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is revising *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) 707.3, to update present "content requirements" on materials eligible for mailing at Periodicals prices with authorized Periodicals publications.

**DATES:** Effective September 7, 2010.

**FOR FURTHER INFORMATION CONTACT:** Jerry Lease, 202-268-7264.

**SUPPLEMENTARY INFORMATION:** After discussions with the Periodicals mailing industry, the Postal Service agreed to review the standards governing contents of Periodicals mail, and decided to update several standards. This rule removes the current advertising limitation on loose supplements, except for unwrapped copies of loose addressed supplements included in a mailing for an authorized Periodicals publication. The final rule also revises the regulations on pages, specifically multi-layer pages, giving publishers more latitude in page design. The provisions concerning the mailing of products and product samples have been updated and simplified. Finally, the standards governing protective covers and attachments have been updated for consistency with past rulings. This final rule contains only

those DMM revisions that are consistent with the expressed wishes of numerous publishers and Periodicals association representatives.

#### Background

In the 1980s, and again in the 1990s, the Postal Service undertook extensive reviews of the standards governing what could be mailed as part of a periodical publication at Periodicals prices (formerly second-class rates). Advances in technology, and difficulty in applying the standards, were key underlying factors in those reviews. On March 27, 1995, the Postal Service published a final rule in the **Federal Register** (60 FR 10021-10029) revising the standards.

Since that time, the standards governing contents of a publication eligible for Periodicals prices have not changed, except for several minor modifications. There has been no discernable undesired movement of printed advertising materials, or other matter, from Standard Mail to Periodicals mail.

The changes to the standards reflected in this final rule concentrate on four areas of "content" provisions and mailpiece construction:

- DMM 707.3.3.1, *Pages*.
- DMM 707.3.3.5, *Supplements*.
- DMM 707.3.4.3, *Products*.
- DMM 707.3.5, *Mailpiece*

#### Construction.

- Specifically DMM 3.5.4, *Without Mailing Wrapper*.
- and DMM 3.5.6, *Cover page and Protective Cover*.

#### Pages

A basic requirement for all Periodicals publications is that they be comprised of "printed sheets." In the March 27, 1995 rulemaking, however, the printed sheet requirement was relaxed to allow small amounts of "fastening" material, such as grommets, string, and rubber bands, used to assemble a page. The Postal Service concluded at that time allowing such materials was not a significant deviation from the "printed sheet" rule because the changes were consistent with the existing practice of allowing Periodicals publications to be bound with staples, saddle stitching, or spiral binding.

More recently, publishers have argued that the 1995 changes, although welcome, unduly limit creativity in designing publications that appeal to their readers and advertisers. These publishers also point out advances in technology that they are restricted from using such as the inclusion of sound devices and video as part of a printed page. Finally, they point out that private delivery companies do not impose

similar restrictions on the delivery of their publications, nor are they prohibited from using such technologies in the newsstand editions of their publications.

Accordingly, DMM 707.3.3.1a is revised to replace "fastening" with "non-paper" in the first sentence to permit non-paper materials other than fastening materials in the construction of a multilayer page. This change would allow additional creativity in page design. The sentence "Not all elements that make up a multilayer page must be printed" is added to 3.3.1a, for additional transparency. That sentence is currently incorporated in Customer Support Ruling (CSR) PS-234, titled "Multilayer pages in Periodicals Publications." Finally, the sentence "In addition, multilayer pages may contain novel characteristics such as an LED display, a sound device, or battery operated movable parts" is added to 3.3.1a, to allow publishers to take advantage of current technologies, within the boundaries of mailable versus nonmailable matter as described in DMM 601.

In addition, it should be noted that publishers continue to be required to adhere to the mailing standards governing the Periodicals price category claimed.

#### Supplement

Many publishers have considered the 25 percent nonadvertising standard for loose supplements to be burdensome, and inappropriate as a means of limiting advertising in Periodicals mail. It is often viewed as an unnecessary restriction on a publisher's ability to choose whether to place advertising matter in the host publication or accompanying loose supplement.

Moreover, the existing standards are hard to apply. This problem exists for customers and postal personnel, as demonstrated by the numerous requests for guidance directed to the Pricing and Classification Service Center (PCSC) and headquarters Mailing Standards personnel concerning what is advertising or nonadvertising matter. Often, when supplements are produced by third parties, it becomes particularly difficult to make such judgments. Contracts must be reviewed to evaluate the relationship(s) between parties. Payment arrangements by outside parties for the advertising portion of supplements must be examined in determining whether the material qualifies as nonadvertising matter.

The Postal Service agrees with many publishers and their association representatives that the 25 percent nonadvertising requirement should be