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. From 12:01 a.m. on January 1, 2005 to 11:59 p.m. on May 31, 2005 add temporary § 165.T01–155 to read as follows:

§ 165.T01–155 Safety Zone: Wantagh Parkway Number 3 Bridge over the Sloop Channel, Town of Hempstead, NY.

(a) *Location.* The following area is a safety zone: All waters of the Sloop Channel in Hempstead, NY within 300-yards of the Wantagh Parkway Number 3 Bridge over the Sloop Channel.

(b) *Effective date.* This rule is effective from 12:01 a.m. on January 1, 2005 until 11:59 p.m. on May 31, 2005.

(c) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port (COTP), Long Island Sound.

(3) All persons and vessels shall comply with the instructions of the COTP, or the designated on-scene U.S. Coast Guard representative. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels.

Dated: December 30, 2004.

John J. Plunkett,

Commander, U.S. Coast Guard, Acting Captain of the Port, Long Island Sound.

[FR Doc. 05–535 Filed 1–11–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–04–046]

RIN 1625–AA87

Security Zone; Protection of Military Cargo, Captain of the Port Zone, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard Captain of the Port Puget Sound published in the **Federal Register** of December 10, 2004, a final rule concerning security zones for the protection of military cargo loading and unloading operations in the navigable waters of Puget Sound. Wording in § 165.1321(c)(3) is being corrected to fix a typographical error in the longitude of the first point listed in the security zone. This document makes this correction.

DATES: This rule is effective January 12, 2005.

FOR FURTHER INFORMATION CONTACT: LTJG T. Thayer, c/o Captain of the Port, Puget Sound, 1519 Alaskan Way South, Seattle, WA 98134, (206) 217–6232.

SUPPLEMENTARY INFORMATION: The Coast Guard published a document in the **Federal Register** on December 10, 2004 (69 FR 71709), which amended 33 CFR 165.1321 by adding Budd Inlet, Olympia, WA as a permanent security zone. In this document, paragraph (c)(3) of the regulatory text contained a typographical error in the longitude of the first point listed in the security zone. The existing, accompanying description of this point as ''approximately the northwestern end of the fence line enclosing Berth 1 at Port of Olympia'' is correct. This correction merely amends the erroneous longitude coordinate in the regulatory text.

■ In rule FR Doc. 04–27213 published on December 10, 2004 (69 FR 71709), make the following correction.

§ 165.1317 [Amended]

■ On page 71711, starting on the fifth line in paragraph (c)(3), remove the phrase ''47°03′12″ N, 122°25′21″ W'' and add, in its place, the phrase ''47°03′12″ N, 122°54′21″ W''.

Dated: December 29, 2004.

Danny Ellis,

Captain, U. S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 05–546 Filed 1–11–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Diego 04–019]

RIN 1625–AA87

Security Zone; San Diego Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is expanding the geographical boundaries of the permanent security zone at Naval Base San Diego. This action is required to provide adequate area for the U.S. Navy to install an upgraded barrier system and provide the minimum required separation distances between the barrier and protected assets at Naval Station San Diego. The revised security zone will run adjacent to the navigation channel between Piers 14 and Pier 5. From the edge of the navigation channel west of Pier 5, the proposed security zone extends to a point 400 feet opposite of Pier 1. The existing security zone at Naval Station San Diego, implemented on April 15, 2003, does not provide adequate separation distance between protected vessels and the proposed barrier system.

DATES: This rule is effective February 11, 2005.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket SD 04–019 and are available for inspection or copying between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MSTC Todd Taylor at (619) 683–6434.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On September 13, 2004, we published a notice of proposed rulemaking (NPRM) entitled ''Security Zone; San Diego Bay'' in the **Federal Register** (69 FR 55122). We received two letters and one e-mail commenting on the proposed rule. No public meeting was requested, and none was held. However, the proposal was raised as a point of discussion during a previously scheduled San Diego Harbor Safety Committee meeting in October 2004. The U.S. Navy and U.S. Coast Guard participated in several meetings with the San Diego Bay Pilots Association to discuss the impact of this revised security zone and the installment of a permanent barrier system.

Background and Purpose

On May 12, 2003, the Coast Guard published a final rule (68 FR 25288) creating a permanent security zone at Naval Station San Diego. This security zone allowed the U.S. Navy to install a small barrier system to protect critical assets at Naval Station San Diego. The U.S. Navy now intends to install a permanent waterfront boat barrier to protect all assets berthed at Naval Station San Diego. The existing security zone does not provide sufficient area to install the permanent barrier system or provide adequate minimum separation distance between the barrier and protected assets.

Discussion of the Comments and Changes

The Coast Guard received a total of three written responses following publication of the NPRM. San Diego Bay Pilots Association (SDBPA) provided a written response dated October 4, 2004. Their letter stated the SDBPA appreciated, respected, and supported the U.S. Navy's need to protect and secure vital assets in San Diego Bay. It further stated that the proposed extension between Pier 8 and Pier 14 was reasonable and would result in minimal negative impact on the transit of commercial traffic in the area. The SDBPA letter then identified concerns regarding the proposed extension between Pier 1 and Pier 8.

Specifically, SDBPA was concerned that extending the security zone and installing a Port Security Barrier would force the existing small vessel traffic such as tugs and tows, excursion vessels and general recreation vessels to intrude, or move closer to the shipping channel, thereby increasing congestion in the channel and raising the potential for marine accidents. The letter concluded by stating the SDBPA believed the proposed extension between Pier 1 and Pier 8 should not be extended farther than 400 feet from the pier heads, approximately 250 feet closer to shore than proposed in the NPRM.

Based on the SDBPA letter, the U.S. Coast Guard and U.S. Navy initiated several open meetings with the marine pilots to address specific concerns and operational plans for using the Port Security Barrier. During the course of those meetings, the U.S. Navy agreed to revise the coordinates of the mooring buoys at the north end of the boom to address the San Diego Marine Pilot's concerns. Accordingly, the Coast Guard revised the north western point of the security zone and moved it approximately 250 feet southeast, from 32°41′00.0″ N, 117°08′12.7″ W to 32°40′58.3″ N, 117°08′11.0″ W.

The U.S. Navy also agreed to revise the manner by which the Port Security Barrier would be opened and closed when vessels entered or departed the security zone to lessen the impact to the shipping channel. Specifically, the U.S. Navy proposed the barrier would be opened and moved parallel to the shore rather than out into the shipping channel.

The U.S. Coast Guard concurs with the U.S. Navy and the San Diego Marine Pilots Association that the proposed security zone can safely be extended approximately 400 feet west of the existing zone. Small vessel traffic is relatively light in the area, and most vessels already stay well clear of U.S. Navy's current barrier system. The impact to the shipping channel will be minimal, and the benefits of providing additional separation distance for the barrier system outweighs the impact to the shipping channel. Therefore, the Coast Guard changed the regulatory text of this proposal to identify a new geographic coordinates for Point B at 32°40′58.3″ N, 117°08′11.0″ W.

The U.S. Coast Guard received one e-mail response from the U.S. Navy Engineer in charge of the Port Security Barrier project stating he had made a typographical error in the latitude coordinate original project description. The Coast Guard had included that incorrect coordinate in the regulatory text of the NPRM. Specifically, the NPRM identifies the latitude of Point D as ''32°40′27.4″ N'', but it should have read ''32°40′17.0″ N''. All charts and diagrams of this security zone extension that were provided during the meetings and discussions addressed previously had correctly represented the proposed extension. Therefore, the Coast Guard has revised the regulatory text to correctly identify the correct latitude coordinates for Point D.

The U.S. Coast Guard received one signed letter from a private citizen stating strong support for the U.S. Coast Guard's and the U.S. Navy's right and responsibility to demonstrate a strong presence in the area as a deterrent to potential terror threats.

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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Due to National Security interests, the implementation of this security zone is necessary for the protection of the United States and its people. The size of the zone is the minimum necessary to provide adequate protection for U.S. Naval vessels, their crews, adjoining areas, and the public. The entities most likely to be affected, if any, are pleasure craft engaged in recreational activities and sightseeing. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting U.S. Naval vessels, their crews, and the public.

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 does not have a significant economic impact on a substantial number of small entities because the expanded zone will still allow sufficient room for vessels to transit the channel unimpeded.

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. No small entities requested assistance.

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 does not result in such 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. The rule is not economically significant and would not create an environmental risk to health or risk to safety that might 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 would 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 the rule 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 rule has not been designated by the Administrator of the Office of Information and Regulatory Affairs as significant energy actions. 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 Commandant Instruction M16475.lD, 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.

The U.S. Navy has separately considered the impact of their proposed project including the placement of anti-small boat barrier booms. The Coast Guard's analysis pertains solely to the expanded placement of the markers designating the security zones already in the waterway. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' (CED) 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: 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. Revise § 165.1101 to read as follows:

§ 165.1101 Security Zone: San Diego Bay, CA.

(a) *Location.* The following area is a security zone: the water area within Naval Station, San Diego enclosed by the following points: Beginning at 32°41′16.5″ N, 117°08′01″ W (Point A); thence running southwesterly to 32°40′58.3″ N, 117°08′11.0″ W (Point B); to 32°40′36.0″ N 117°07′49.1″ W (Point C); to 32°40′17.0′ N, 117°07′34.6″ W (Point D); to 32°39′36.4″ N, 117°07′24.8″ W (Point E); to 32°39′38.5″ N 117°07′06.5″ W, (Point F); thence running generally northwesterly along the shoreline of the Naval Station to the place of the beginning. All coordinates referenced use datum: NAD 1983.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port San Diego; Commander, Naval Base San Diego; Commander, Navy Region Southwest; or the Commanding Officer, Naval Station, San Diego.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 619–683–6495 or on VHF channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the U.S. Navy.

Dated: December 23, 2004.

John E. Long,

Captain, U.S. Coast Guard, Captain of the Port, San Diego.

[FR Doc. 05–547 Filed 1–11–05; 8:45 am]

BILLING CODE 4910–15–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1835 and 1852

RIN 2700–AD04

Final Scientific and Technical Reports—SBIR and STTR Contracts

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This rule adopts as final without change the proposed rule published in the **Federal Register** on August 12, 2004. This final rule amends the NASA FAR Supplement (NFS) by adding an Alternate III to the ''Final Scientific and Technical Reports'' clause for use in contracts awarded under the Small Business Innovation Research (SBIR) and the Small Business Technology Transfer (STTR) programs. This change is required to recognize the ''Rights in Data—SBIR Programs'' clause rather than the FAR ''Rights in Data—General'' clause currently referenced in the NFS ''Final Scientific and Technical Reports'' clause.

DATES: *Effective Date:* This rule is effective January 12, 2005.

FOR FURTHER INFORMATION CONTACT: Celeste Dalton, NASA, Office of Procurement, Contract Management Division; (202) 358–1645; e-mail: *Celeste.M.Dalton@nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

The NASA FAR Supplement at 1835.070(d) requires all research and development contracts to include the clause at 1852.235–73, Final Scientific and Technical Reports. SBIR and STTR contracts are considered R&D contracts and must include the clause at 1852.235–73. This clause provides direction to the contractor regarding its ability to release data first produced or used in performance of the contract. However, the clause currently only address the contractor's rights in data as defined in FAR 52.227–14, Rights in Data—General. Contractor rights in data under SBIR and STTR contracts are defined in FAR clause 52.227–20, Rights in Data—SBIR Program. This change adds an Alternate III to 1852.235–73 for use in SBIR and STTR contracts that references FAR 52.227–20 to recognize contractor data rights under SBIR and STTR contracts.

NASA published a proposed rule in the **Federal Register** on August 12, 2004 (69 FR 49845). No comments were received. The proposed rule is being adopted as final without change.

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

NASA certifies that this final rule does not have a significant economic impact on a substantial number of small entities with the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it only clarifies what the appropriate data rights clause is used under SBIR and STTR contracts.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 1835 and 1852

Government procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

■ Accordingly, 48 CFR parts 1835 and 1852 are amended as follows:

■ 1. The authority citation for 48 CFR parts 1835 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

■ 2. Amend section 1835.070 by adding paragraph (d)(3) to read as follows:

1835.070 NASA contract clauses and solicitation provision.

* * * * *

(d) * * *

(3) Except when Alternate II applies in accordance with paragraph (d)(2) of this section, the contracting officer shall insert the clause with its Alternate III in all SBIR and STTR contracts.

* * * * *

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 1852.235–73 by revising the date of the clause to read ''(JAN 2005)'' in the first sentence of paragraph (b), removing ''NPG'' and adding ''NPR'' in its place; and adding Alternate III to read as follows:

1852.235–73 Final Scientific and Technical Reports.

* * * * *

Alternate III

(Jan 2005)

As prescribed by 1835.070(d)(3), insert the following as paragraph (e) of the basic clause:

(e) The Contractor's rights in data are defined in FAR 52.227–20, Rights In Data—SBIR Program. The Contractor may publish, or otherwise disseminate, such data without prior review by NASA. The Contractor is responsible for reviewing publication or dissemination of the data for conformance with laws and regulations governing its distribution, including intellectual property rights, export control, national security and other requirements, and to the extent the Contractor receives or is given access to data necessary for the performance of the contract which contain restrictive markings, for complying with such restrictive markings. In the event the Contractor has established its claim to copyright data produced under this contract and has affixed a copyright notice and acknowledgement of Government sponsorship, or has affixed the SBIR Rights Notice contained in paragraph (d) of FAR 52.227–20, the Government shall comply with such Notices.

[FR Doc. 05–530 Filed 1–11–05; 8:45 am]

BILLING CODE 7510–01–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 579

[Docket No. NHTSA 2001–8677; Notice 13]

Reporting of Information and Documents About Potential Defects; Correction

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to the due dates of reports under the early warning reporting rule.

DATES: This final rule is effective January 12, 2005.