

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117****[Docket No. USCG-2009-0877]****Drawbridge Operation Regulation; Cerritos Channel, Long Beach, CA****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Commodore Schuyler F. Heim drawbridge across Cerritos Channel, mile 4.9, at Long Beach, CA. The deviation is necessary to allow film industry use of the drawbridge. This deviation allows the bridge to remain secured at various elevations including the closed-to-navigation position during the filming operation.

**DATES:** This deviation is effective from 12 midnight October 1, 2009 through 5 a.m. on October 5, 2009.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2009-0877 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0877 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 David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510-437-3516, e-mail [David.H.Sulouff@uscg.mil](mailto:David.H.Sulouff@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** Caltrans requested a temporary change to the operation of the Commodore Schuyler F. Heim highway bridge, mile 4.9 at Long Beach, CA. The drawbridge navigation span provides a vertical clearance of 37 feet above Mean High Water in the closed-to-navigation position and 163 feet in the full open to navigation position. Under the governing drawbridge regulation, 33 CFR 117.147, the draw of the

Commodore Schuyler F. Heim highway bridge, mile 4.9 at Long Beach, shall open on signal; except that, from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 6 p.m. Monday through Friday except Federal holidays, the draw need not be opened for the passage of vessels. The opening signal for the Commodore Schuyler Heim Bridge is three prolonged blasts. The acknowledging signal is two prolonged blasts followed by one short blast when the draw will open immediately and five short blasts when the draw will not open immediately. VHF-FM Channel 13 (156.65 MHz) or other assigned frequencies may be used. Navigation on the waterway is commercial, recreational, search and rescue, and law enforcement.

The drawspan will be secured at various elevations including the closed-to-navigation position from 7 p.m. on September 18, 2009 through 5 a.m. on October 5, 2009, to allow film industry use of the drawbridge. The alternative path around Terminal Island will be available for routine and emergency navigation. This temporary deviation has been coordinated with commercial and recreational waterway users. No objections to the proposed temporary deviation were raised.

Vessels that can transit the bridge, while in the closed-to-navigation position, should contact the Coast Guard Captain of the Port LA/LB, for information on waterway closures.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 18, 2009.

**J.R. Castillo,**

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

[FR Doc. E9-23643 Filed 9-30-09; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[Docket No. USCG-2008-1016]****RIN 1625-AA87****Security Zone; Naval Base Point Loma; San Diego Bay, San Diego, CA****AGENCY:** Coast Guard, DHS.**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is expanding a naval security zone. The expanded

zone will encompass a nearby, separate security zone in its entirety. The subsumed security zone will be removed from the regulations. This action also includes the installation of water barriers within the expanded security zone. These water borne barriers will provide a line of demarcation and a defensive measure as a safeguard from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. No persons or vessel may enter or remain in the security zone without permission of the Captain of the Port, the Commander of Naval Base Point Loma, the Commander of Naval Region Southwest, or a designated representative of those individuals.

**DATES:** This rule is effective November 2, 2009.

**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-2008-1016 and are available online by going to <http://www.regulations.gov>, inserting USCG-2008-1016 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 Lieutenant Commander Mike Dolan, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619-278-7261, e-mail [Michael.B.Dolan@uscg.mil](mailto:Michael.B.Dolan@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 February 11, 2009, we published a notice of proposed rulemaking (NPRM) entitled Security Zone; Naval Base Point Loma; San Diego Bay, San Diego, CA in the **Federal Register** (74 FR 6842). We received no comments on the proposed rule. There were no requests for a public meeting, therefore no meeting was held.

**Background and Purpose**

The U.S. Navy requested an expansion of an existing security zone. The new zone will allow for installation of water barriers to provide a line of demarcation and defensive measures as

a safeguard from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature. The expanded security zone will entirely subsume a nearby existing security zone, which will be removed.

#### Discussion of Comments and Changes

It was determined that Point B (32°42.48' N, 117°14.17' W) and Point C (32°42.17' N, 117°14.00' W) were plotted in the channel to the south entrance of Shelter Island. These points were brought out of the channel and the new coordinates are 32°42.48' N, 117°14.22' W (Point B) and 32°42.17' N, 117°14.05' W (Point C).

Point H (32°41.04' N, 117°14.14' W) was relocated to 32°41.17' N, 117°13.97' W. The original point caused the security zone to run along the shoreline and was deemed unnecessary.

#### 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.

This determination is based on the size and location of the security zone. Vessels do not routinely operate for commercial purposes within the area encompassed by the security zone expansion, which is currently within a charted restricted area (33 CFR 334.870). Recreational vessels will not be allowed to transit through the established security zone.

#### 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 San Diego Bay.

This security zone will not have a significant economic impact on a substantial number of small entities because vessel traffic can pass safely around the security zone.

#### 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 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 023-1 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 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 changing and disestablishing a security zone. 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; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.1102 to read as follows:

#### § 165.1102 Security Zone; Naval Base Point Loma; San Diego Bay, San Diego, CA.

(a) *Location.* The following area is a security zone: The water adjacent to the Naval Base Point Loma, San Diego, CA, enclosed by the following coordinates: 32°42.48' N, 117°14.22' W (Point A);

32°42.48' N, 117°14.21' W (Point B); 32°42.17' N, 117°14.05' W (Point C); 32°41.73' N, 117°14.21' W (Point D); 32°41.53' N, 117°14.23' W (Point E); 32°41.55' N, 117°14.02' W (Point F); 32°41.17' N, 117°13.95' W (Point G); 32°41.17' N, 117°13.97' W (Point H); thence running generally north along the shoreline to Point A.

(b) *Regulations.* (1) The general regulations governing security zones found in 33 CFR 165.33 apply to the security zone described in paragraph (a) of this section.

(2) Entry into, or remaining in, the area of this zone is prohibited unless authorized by the Captain of the Port San Diego; Commanding Officer, Naval Base Point Loma; or Commander, Navy Region Southwest.

(3) Persons desiring to transit the area of the security zone may request permission from the Captain of the Port San Diego at telephone number (619) 278-7033 or on VHF channel 16 (156.8 MHz) or from either the Commanding Officer, Naval Base Point Loma or the Commander, Navy Region Southwest by calling the Navy Port Operation Dispatch at telephone number (619) 556-1433 or on VHF-FM channels 16 or 12. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port San Diego or his or her designated representative.

(c) *Definitions.* For purposes of this section: *Captain of the Port San Diego*, means the Commanding Officer of the Coast Guard Sector San Diego; *Commander, Navy Region Southwest*, means Navy Region Commander responsible for the Southwest Region; *Commanding Officer, Naval Base Point Loma*, means the Installation Commander of the naval base located on Point Loma, San Diego, California; *Designated Representative*, means any U.S. Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port San Diego to assist in the enforcement of the security zone described in paragraph (a) of this section.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zone described in paragraph (a) of this section by the U.S. Navy and local law enforcement agencies.

■ 3. Remove § 165.1103.

Dated: May 1, 2009.

T.H. Farris,

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

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BILLING CODE 4910-15-P

## POSTAL REGULATORY COMMISSION

### 39 CFR Part 3020

[Docket Nos. MC2009-40 and CP2009-61; Order No. 295]

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is adding Parcel Select & Parcel Return Service Contract 2 to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

**DATES:** Effective October 1, 2009 and is applicable beginning September 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202-789-6820 or [stephen.sharfman@prc.gov](mailto:stephen.sharfman@prc.gov).

### SUPPLEMENTARY INFORMATION:

*Regulatory History*, 74 FR 44881 (August 31, 2009).

- I. Introduction
- II. Background
- III. Comments
- IV. Commission Analysis
- V. Ordering Paragraphs

### I. Introduction

The Postal Service seeks to add a new product identified as Parcel Select & Parcel Return Service Contract 2 to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

### II. Background

On August 21, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30, *et seq.*, to add Parcel Select & Parcel Return Service Contract 2 to the Competitive Product List.<sup>1</sup> The Postal Service asserts that the Parcel Select & Parcel Return Service Contract 2 product is a competitive product “not of general applicability” within the meaning of 39 U.S.C. 3632(b)(3). *Id.* at 1. The Request has been assigned Docket No. MC2009-40.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* The contract has been assigned Docket No. CP2009-61.

<sup>1</sup> Request of the United States Postal Service to Add Parcel Select & Parcel Return Service Contract 2 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, August 21, 2009 (Request).