

(A) Institutional charges (*e.g.*, charges for facility use, use or treatment rooms, and general nursing services);

(B) Routine laboratory services related to the dialysis session;

(C) Pharmaceuticals and supplies related to the dialysis;

(D) Home dialysis support services identified at 42 CFR 494.100;

(E) Purchase and delivery of all necessary home dialysis supplies; and

(F) Dialysis training for days 1–120.

(ii) Services which may be billed separately:

(A) Evaluation and management services provided by authorized individual professional providers. These services will continue to be reimbursed using existing reimbursement systems (*e.g.*, CMAC).

(B) Drugs, supplies, and devices listed by Medicare as eligible for Transitional Drug Add-on Payment Adjustment and Transitional Add-on Payment Adjustment for New and Innovative Equipment and Supplies under the Medicare ESRD PPS. These services will continue to be reimbursed using existing reimbursement systems (*e.g.*, CMAC).

(C) Professional services, supplies, and pharmaceuticals unrelated to dialysis care (*e.g.*, if a flu shot is administered at the same time as dialysis treatment). These services will continue to be reimbursed using existing reimbursement systems (*e.g.*, CMAC).

(iii) Establishment of the flat rate:

(A) *Per session rate for treatment days 1–120.* The flat, per-session rate shall be equal to the current Medicare base rate, multiplied by the current Medicare adjustment factor applied to individuals aged 44–69 (7% for CY 22), and further multiplied by the current Medicare adjustment factor for the date of onset (32.7% for CY 2022). The Medicare factors utilized in subsequent years will be based on modifications made under 42 CFR part 413, subpart H, Medicare ESRD PPS.

(B) *Per session rate for treatment day 121 and beyond.* The flat, per-session rate shall be equal to the Medicare base rate, multiplied by the Medicare adjustment factor applied to individuals aged 44–69. The Medicare factors utilized in subsequent years will be based on modifications made under 42 CFR part 413, subpart H, Medicare ESRD PPS.

(C) *Wage adjustment.* The per-session rates in paragraphs (c)(1)(iii)(A) and (B) of this section shall be wage adjusted using the wage adjustment factors and labor-related shares published in the most recent Medicare ESRD Final Rule

at the time the annual per-session rates are posted.

(D) *Annual updates.* The per session rates will be updated within 90 days of publication of new Medicare base rates, and published to the TRICARE website at www.health.mil.

(E) *Dialysis training.* To account for training services and supplies, dialysis training sessions will receive a home dialysis training add-on payment for day treatment days 121 and after. The training add-on payment will not apply to treatment days 1–120, as the onset adjustment factor of 32.7% is applied to the per-session rate for treatment days 1–120.

(2) The reimbursement methods established in paragraph (c)(1) of this section applies to freestanding ESRD facilities meeting the requirements established for TRICARE authorized freestanding ESRD facilities in § 199.6. For purposes of cost-sharing and copayments, treatment provided by freestanding ESRD facilities are considered outpatient specialty visits. The applicable copayments and cost-shares described in §§ 199.4 and 199.17(k)(2)(iii) shall apply. Hospital-based ESRD facilities are not subject to the provisions of this paragraph, and will continue to be reimbursed utilizing other applicable reimbursement systems (*e.g.*, the Outpatient Prospective Payment System).

* * * * *

Dated: January 6, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–00381 Filed 1–11–23; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0002]

RIN 1625–AA00

Safety Zone; Chinese Harbor; Santa Cruz Island, California

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The U.S. Coast Guard is establishing a temporary safety zone for the navigable waters in Chinese Harbor of Santa Cruz Island, California. This safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards

created by ongoing oil recovery and salvage operations relating to the grounding of a 60-foot fishing vessel in Chinese Harbor. Entry of persons or vessels into this safety zone is prohibited unless specifically authorized by the Captain of the Port Los Angeles—Long Beach (COTP), or their designated representative.

DATES: This rule is effective without actual notice from January 12, 2023 until January 23, 2023. For the purposes of enforcement, actual notice will be used from January 5, 2023, until January 12, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2023–0002 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LCDR Maria Wiener, Waterways Management, U.S. Coast Guard Sector Los Angeles—Long Beach; telephone (310) 357–1603, email D11-SMB-SectorLALB-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive order
FR Federal Register
LLNR Light List Number
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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) because it is impracticable. This is an emergency response to a vessel grounding and immediate action is needed to respond to potential safety hazards associated with the emergency oil recovery operations. It is impracticable to publish an NPRM because we must establish this safety zone by January 05, 2023.

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 of this rule would be contrary to the public interest because immediate action is needed to ensure the safety of persons, vessels, and the marine environment in the vicinity of Chinese Harbor during emergency oil recovery operations.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231) and 46 U.S.C. 70011(b)(3). The Captain of the Port Los Angeles—Long Beach (COTP) has determined that potential hazards associated with emergency oil recovery operations will be a safety concern for anyone within a 500-yard radius of the grounded fishing vessel in Chinese Harbor. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while oil recovery operations take place in the vicinity of Chinese Harbor.

IV. Discussion of the Rule

This rule establishes a safety zone from January 05, 2023, through January 23, 2023. The safety zone will cover all navigable waters from the surface to the sea floor in and around Chinese Harbor from the location of the commercial fishing vessel SPERANZA MARIE (Official Number 643138), currently on the shoreline at 34°01.87' N, 119°36.25' W and extending out along a 500-yard radius from the vessel. These coordinates are based on North American Datum of 1983. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or his designated representative. Sector Los Angeles—Long Beach may be contacted on VHF—FM Channel 16 or (310) 521–3801. The marine public will be notified of the safety zone via Broadcast Notice to Mariners.

Designated representative means a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel designated by or assisting the COTP in the enforcement of the safety zone.

If the COTP determines that the zone need not be enforced during this entire period, the Coast Guard will announce via Broadcast Notice to Mariners when the zone will no longer be subject to enforcement.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and

executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on a number of these statutes and E.O.s, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This rule impacts an area of 500-yards during for 19 days during the month of January 2023. Vessel traffic will be able to safely transit around this safety zone, which will impact a small, designated area of Chinese Harbor, Santa Cruz Island, CA.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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.

E. 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.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and COMDTINST 5090.1 (series), which guide the Coast Guard in

complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that 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 involves a safety zone encompassing an area extending 500-yards out from a grounded vessel in vicinity of Chinese Harbor and will last only while oil recovery operations are ongoing. It is categorically excluded from further review under paragraph L60, in Appendix A, Table 1 of DHS Instruction Manual 023–001–01, Rev. 1.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

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: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2. 2.

- 2. Add § 165. T11–120 to read as follows:

§ 165. T11–120 Safety Zone; Chinese Harbor; Santa Cruz Island, California.

(a) *Location.* The following area is a safety zone: All navigable waters from the surface to the sea floor in and around Chinese Harbor from the vessel SPERANZA MARIE, currently on the shoreline at 34°01.87' N, 119°36.25' W, and extending out along a 500-yard radius from the vessel. These coordinates are based on North American Datum of 1983.

(b) *Definitions.* As used in this section, *Designated representative* means a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel designated by or assisting the Captain of the Port Los Angeles—Long Beach (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by hailing Coast Guard Sector Los Angeles—Long Beach on VHF–FM Channel 16 or calling at (310) 521–3801. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from January 5, 2023, through January 23, 2023. If the COTP determines that the zone need not be enforced during this entire period, the Coast Guard will announce via Broadcast Notice to Mariners when the zone will no longer be subject to enforcement.

Dated: January 4, 2023.

R.D. Manning,

Captain, U.S. Coast Guard, Captain of the Port Sector Los Angeles—Long Beach.

[FR Doc. 2023–00488 Filed 1–11–23; 8:45 am]

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Parts 1149 and 1158

RIN 3135–AA33

Civil Penalties Adjustment for 2023

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Final rule.

SUMMARY: The National Endowment for the Arts (NEA) is adjusting the maximum civil monetary penalties (CMPs) that may be imposed for violations of the Program Fraud Civil Remedies Act (PFCRA) and the NEA's Restrictions on Lobbying to reflect the requirements of the Federal Civil Penalties Inflation Adjustment Act of 2015 (the 2015 Act). The 2015 Act further amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act) to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. This final rule provides the 2023 annual inflation adjustments to the initial “catch-up” adjustments made on June 15, 2017, and reflects all other inflation adjustments made in the interim.

DATES: This rule is effective January 12, 2023.

FOR FURTHER INFORMATION CONTACT:

Daniel Fishman, Assistant General Counsel, National Endowment for the Arts, 400 7th St. SW, Washington, DC 20506, Telephone: 202–682–5418.

SUPPLEMENTARY INFORMATION:

1. Background

On December 12, 2017, the NEA issued a final rule entitled “Federal Civil Penalties Adjustments”,¹ which finalized the NEA's June 15, 2017, interim final rule entitled “Implementing the Federal Civil Penalties Adjustment Act Improvements Act”,² implementing the 2015 Act (section 701 of Pub. L. 114–74), which amended the Inflation Adjustment Act (28 U.S.C. 2461 note) requiring catch-up and annual adjustments to the NEA's CMPs. The 2015 Act requires agencies make annual adjustments to its CMPs for inflation.

A CMP is defined in the Inflation Adjustment Act as any penalty, fine, or other sanction that is (1) for a specific monetary amount as provided by Federal law, or has a maximum amount provided for by Federal law; (2) assessed or enforced by an agency pursuant to Federal law; and (3) assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.

These annual inflation adjustments are based on the percentage change in the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October preceding the date of the adjustment, relative to the October CPI–U in the year of the previous adjustment. The formula for the amount of a CMP inflation adjustment is prescribed by law, as explained in Office of Management and Budget (OMB) Memorandum M–16–06 (February 24, 2016), and therefore the amount of the adjustment is not subject to the exercise of discretion by the Chairman of the National Endowment for the Arts (Chairman).

OMB has issued guidance on implementing and calculating the 2023 adjustment under the 2015 Act.³ Per this guidance, the CPI–U adjustment multiplier for this annual adjustment is 1.07745. In its prior rules, the NEA identified two CMPs, which require adjustment: the penalty for false statements under the PFCRA and the penalty for violations of the NEA's Restrictions on Lobbying. With this rule,

¹ 82 FR 58348.

² 82 FR 27431.

³ OMB Memorandum M–22–05 (December 15, 2022).