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FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Joe Arca, Project Officer, First Coast Guard District, telephone (212) 668-7165, joe.m.arca@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: The Roosevelt Island Bridge, across the East River, mile 3.1, at New York City, New York, has a vertical clearance in the closed position of 34 feet at mean high water and 40 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.781(c).

The East River at the bridge location is a secondary channel not normally used by the local seasonal recreational vessels, and commercial vessels that can transit around Roosevelt Island on the other side.

The owner of the bridge, New York City Department of Transportation, requested a temporary deviation to facilitate the completion of construction for a major rehabilitation of the bridge.

On March 19, 2009, we published a temporary deviation entitled "East River, New York" in the **Federal Register** (74 FR 11645) that allowed the Roosevelt Island Bridge to remain in the closed position from April 15, 2009 through July 14, 2009, to facilitate rehabilitation construction at the bridge.

On June 18, 2009, the bridge owner notified us that the construction authorized under the above temporary deviation would not be completed as originally scheduled on July 14, 2009, and that an additional temporary deviation would be necessary for one additional month, July 15, 2009 through August 15, 2009, in order to finish their work.

Under this temporary deviation the Roosevelt Island Bridge may remain in the closed position from July 15, 2009 through August 15, 2009. Vessels that can pass under the bridge without a bridge opening may do so at all times.

In accordance with 33 CFR 117.35(e), the bridge 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: July 14, 2009.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0456]

RIN 1625-AA00

Safety Zone; Naval Training August and September, San Clemente Island, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of the Pacific Ocean at the north end of San Clemente Island in support of Naval Live Fire Training. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the training activity. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port (COTP) or his designated representative.

DATES: This rule is effective from August 1, 2009 through September 30, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0456 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-2009-0456 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 Petty Officer Kristen Beer, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619-278-7262, e-mail Kristen.A.Beer@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 immediate action is necessary to ensure the safety of commercial and recreational vessels in the vicinity of any live fire training on the dates and times this rule will be in effect and delay would be contrary to the public interest.

For the same reasons, the Coast Guard also finds that good cause exists under 5 U.S.C. 553(d)(3) for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay in the effective date of this rule would expose mariners to the dangers posed by the training.

Background and Purpose

U.S. Naval forces will be conducting intermittent training involving live fire exercises throughout August and September 2009. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the training activity.

Discussion of Rule

The Coast Guard is establishing a safety zone that will be enforced from August 1, 2009 through September 30, 2009. The limits of the safety zone will be the navigable waters of the Pacific Ocean at the north end of San Clemente Island bounded by lines connecting the following coordinates: Beginning at 33°01.09' N, 118°36.34' W; thence to 32°59.95' N, 118°39.77' W; thence running parallel to the shoreline at a distance of approximately 3 NM to 33°02.81' N, 118°30.65' W; thence to 33°01.29' N, 118°33.88' W; thence along the shoreline returning to 33°01.09' N, 118°36.34' W (NAD 83).

This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the training

activities. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size and location of the safety zone. Commercial and recreational vessels will not be allowed to transit through the designated safety zone during specified times of training.

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 Pacific Ocean on the north end of San Clemente Island from August 1, 2009 until September 30, 2009.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be enforced only during naval training exercises. Vessel traffic can pass safely around the zone. Traffic will be allowed to pass through the zone with the permission of the U.S. Navy or U.S.

Coast Guard. Before the effective period, the Coast Guard will issue broadcast notice to mariners (BNM) alerts.

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 because this rule establishes a safety 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; Public Law 107-295; 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new temporary section § 165.T11-224 to read as follows:

§ 165.T11-224 Safety Zone; Naval Training August and September, San Clemente Island, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Pacific Ocean, from surface to bottom, at the north end of San Clemente Island bounded by lines connecting the following points: Beginning at 33°01.09' N, 118°36.34' W; thence to 32°59.95' N, 118°39.77' W; thence running parallel to the shoreline at a distance of approximately 3 NM to 33°02.81' N, 118°30.65' W; thence to 33°01.29' N, 118°33.88' W; thence along the shoreline returning to 33°01.09' N,

118°36.34' W. These coordinates are based on NAD 83.

(b) *Effective Period.* This section is effective from August 1, 2009 through September 30, 2009 during naval training exercises. If training is concluded prior to the scheduled termination time, the COTP will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definitions apply to this section: *Designated representative*, means any Commissioned, Warrant, or Petty Officers of the Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the COTP; *non-authorized personnel and vessels*, means any civilian boats, fishermen, divers, and swimmers.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the COTP San Diego or his designated representative.

(2) Non-authorized personnel and vessels requesting permission to transit through the safety zone may request authorization to do so from the COTP San Diego or his designated representative. They may be contacted on VHF-FM Channel 16, or at telephone number (619) 278-7033.

(3) Naval units involved in the exercise are allowed in confines of the established safety zone.

(4) All persons and vessels shall comply with the instructions of the Coast Guard COTP or his designated representative.

(5) Upon being hailed by U.S. Coast Guard or other official personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(6) The Coast Guard may be assisted by other federal, state, or local agencies including the U.S. Navy.

Dated: June 15, 2009.

T.H. Farris,

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

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AK95

Recoupment of Severance Pay From VA Compensation; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Correcting Amendment.

SUMMARY: This document contains a correction to the regulation of the Department of Veterans Affairs (VA) that governs recoupment of lump-sum readjustment pay from disability compensation. This correction is required in order to amend an authority citation in the regulation. No substantive change to the content of the regulation is being made by this correcting amendment.

DATES: *Effective:* July 24, 2009.

FOR FURTHER INFORMATION CONTACT: James E. Figliozzi, Office of Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461-4902.

SUPPLEMENTARY INFORMATION: VA published an amendment to a final rule in the **Federal Register** on September 27, 2002 (See 67 FR 60868), that, among other things, added 10 U.S.C. 1174(h)(2) and 10 U.S.C. 1212(c) as authority citations for 38 CFR 3.700(a)(2)(iii). The citation to 10 U.S.C. 1212(c) is incorrect, because that statute governs the recoupment of disability severance pay. A subsequent amendment to the final rule on June 5, 2009 (See 74 FR 26957) retained this incorrect authority citation. This document corrects that error. Because the citation to 10 U.S.C. 1174(h)(2) is correct, it remains unchanged.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

■ Accordingly, 38 CFR part 3 is corrected by making the following correcting amendment:

PART 3—ADJUDICATION

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. In § 3.700, revise the authority citation after paragraph (a)(2)(iii) to read as follows:

§ 3.700 General.

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(a) * * *

(2) * * *

(iii) * * *