

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

[Docket No. USCG-2009-0870]

RIN 1625-AA00

Safety Zone; Waters Surrounding M/V Guilio Verne and Barge Hagar for the Transbay Cable Laying Project, San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone in the navigable waters of San Francisco Bay surrounding the Motor Vessel (M/V) Guilio Verne and barge Hagar while engaged in cable laying operations. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or his designated representative. This safety zone is necessary to protect persons and property from hazards associated with the cable laying operations.

DATES: This temporary final rule is effective from 12 a.m. on October 22, 2009, until 11:59 p.m. on December 1, 2009. This temporary final rule is enforceable with actual notice by Coast Guard personnel beginning October 7, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0870 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0870 in the "Keyword" box, and then clicking "Search." 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 Lieutenant Junior Grade Simone Mausz, U.S. Coast Guard Sector San Francisco, at (415) 399-7443 or e-mail at simone.mausz@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 the event would occur before the rulemaking process would be completed. The safety zone is necessary to protect the safety of persons and property in the area from the dangers posed by the offloading of heavy equipment. Delaying the effective date of the safety zone would expose members of the public to those dangers, and would be contrary to the public interest.

For the same reasons, the Coast Guard also finds under 5 U.S.C. 553(d)(3) that good cause exists 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 members of the public to the dangers associated with offloading heavy equipment.

Background and Purpose

The Transbay Cable Laying project is necessary to deliver electrical current from a decommissioned power plant in Pittsburg, CA to a power plant in San Francisco to provide the city with energy. This rule is necessary for the safety of the public and vessels transiting to other berths during the offload of this cargo. This rule prohibits entry of any vessel or person into the safety zone without specific authorization from the Captain of the Port or his designated representative.

Discussion of Rule

This temporary moving safety zone will remain in effect from 12 a.m. October 7, 2009 through 11:59 p.m. December 1, 2009 and includes all waters extending from the surface area to the sea floor within 1,000 feet of the vessel and barge.

The effect of the temporary moving safety zone will be to restrict navigation in the vicinity of the cable laying operations while the cable is being deployed and buried. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel

may enter or remain in the restricted area. These regulations are needed to keep spectators and vessels a safe distance away from the vessel to ensure the safety of participants, spectators, and transiting vessels.

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.

Although this rule restricts access to the waters encompassed by the temporary moving safety zone, the effect of this rule will not be significant because vessels will be able to safely transit around the area and the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the temporary moving safety zone will result in minimum impact. The entities most likely to be affected are pleasure craft engaged in recreational activities.

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 may affect owners and operators of pleasure craft engaged in recreational activities and sightseeing. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic can pass safely around the area; (ii) vessels engaged in recreational activities and sightseeing have ample space outside of the effected portion of the San Francisco Bay to engage in these activities; (iii) this rule will encompass only a small portion of

the waterway for a limited period of time; and, (iv) the maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners.

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 affect 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 because the rule involves establishing 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; 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. Add temporary § 165-T11-243 to read as follows:

§ 165-T11-243 Safety Zone; Transbay Cable Laying Project, San Francisco Bay, CA.

(a) *Location.* The following area is a temporary moving safety zone: All waters of San Francisco Bay up to Pittsburg, CA, from surface to bottom, within 1,000 feet of the M/V Guilio Verne and the barge Hagar.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, or local officer

designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general regulations in § 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the temporary moving safety zone must comply with all directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zone on VHF-16 or through the 24-hour Command Center at telephone (415) 399-3547.

(d) *Effective period.* This section is effective from 12 a.m. on October 7, 2009 through 11:59 p.m. on December 1, 2009.

Dated: October 6, 2009.

P.M. Gugg,

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

[FR Doc. E9-25393 Filed 10-21-09; 8:45 am]

BILLING CODE 4910-15-P

POSTAL SERVICE

39 CFR Part 20

Nonmailable Items Prohibited in All Outbound International Mail—Update

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising and adding new standards which codify that replica and inert explosive devices, and counterfeit and pirated items are nonmailable in outbound international mail.

DATES: *Effective Date:* January 4, 2010.

FOR FURTHER INFORMATION CONTACT: Rick Klutts, 813-877-0372.

SUPPLEMENTARY INFORMATION: Consistent with Proposals 20.15.2 and 20.15.6—adopted by the 24th Congress of the Universal Postal Union (UPU) in Geneva Switzerland on July 23–August 12, 2008,—that amend Article 15 of the UPU Convention, we are revising *Mailing Standards of the United States Postal Service, International Mail Manual (IMM®)* to make replica and

inert explosive devices and counterfeit and pirated items nonmailable.

Replica and Inert Explosive Devices

Consistent with Proposal 20.15.2, this prohibition is intended to apply to devices that were originally designed for military or combat use (including training) and is also extended to replicas of such items. Specific items include replica and inert explosive devices and military ordnance, such as grenades, ammunition, shells and the like.

This prohibition does not extend to items such as children's toys or articles that do not represent such items in a realistic manner.

Counterfeit or Pirated Articles

Consistent with UPU Proposal 20.15.6, this prohibition is intended to reduce the circulation of counterfeit and pirated articles between UPU members. The prohibition also illustrates that the UPU's members actively support the World Customs Organization's current campaign to thwart production and circulation of counterfeited and pirated products, such as dangerous toys and electrical items, dangerous counterfeit medicines and counterfeit branded goods, which do economic harm to domestic and international companies.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

■ Accordingly, 39 CFR part 20 is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR part 20 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301-307; 39 U.S.C. 101, 401, 403, 404, 407, 408, 414, 416, 3001-3011, 3201-3219, 3403-3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service, International Mail Manual (IMM)* as follows:

Mailing Standards of the United States Postal Service, International Mail Manual (IMM)

1 International Mail Services

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130 Mailability International Mail Services

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[Revise 136 in its entirety as follows:]

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136 Nonmailable Goods

136.1 Dangerous Goods

The following dangerous goods (hazardous materials, as defined in DMM 601) are prohibited in outbound international mail:

- a. Explosives or explosive devices.
- b. Flammable materials.
 - 1. Pyrophoric, flammable, or combustible liquids with a closed cup flash point below 200 °F.
 - 2. Flammable solids, including matches.
- c. Oxidizers.
- d. Corrosives, liquid or solid.
- e. Compressed gases.
 - 1. Flammable.
 - 2. Nonflammable with an absolute pressure exceeding 40 psi at 70 °F or 104 psi at 130 °F.
- f. Poisons, irritants, controlled substances, and drug paraphernalia.
- g. Magnetized material with a magnetic field strength of .002 gauss or more at a distance of 7 feet.
- h. Dry ice (carbon dioxide solid).

136.2 Replica and Inert Explosive Devices

The following types of replica or inert explosive devices are prohibited in outbound international mail:

- 1. Military ordnance, ammunition, and shells.
- 2. Grenades.
- 3. Similar devices that were originally designed for military or combat use (including training).

This prohibition does not extend to items such as children's toys or articles that do not represent such items in a realistic manner.

136.3 Counterfeit and Pirated Items

Any type of counterfeit or pirated article is prohibited in outbound international mail.

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Neva R. Watson,

Attorney, Legislative.

[FR Doc. E9-25363 Filed 10-21-09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2009-0599; FRL-8971-4]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revision to Clean Air Interstate Rule Sulfur Dioxide Trading Program

AGENCY: Environmental Protection Agency (EPA).