

**Note 5:** Pharmacological formulations containing nitrogen mustards and certain reference standards for these drugs are not considered to be chemical agents and are licensed by the Department of Commerce when:

(1) The drug is in the form of a final medical product; or

(2) The reference standard contains salts of HN2 [bis(2-chloroethyl) methylamine], the quantity to be shipped is 150 milligrams or less, and individual shipments do not exceed twelve per calendar year per end user.

Technical data for the production of HN1 [bis(2-chloroethyl)ethylamine]; HN2 [bis(2-chloroethyl)methylamine], HN3 [tris(2-chloroethyl)amine]; or salts of these, such as tris (2-chloroethyl)amine hydrochloride, remains controlled under this Category.

\* \* \* \* \*

Dated: September 3, 2008.

Frank J. Ruggiero,

Acting Assistant Secretary for Political-Military Affairs, Department of State.

[FR Doc. E8-21832 Filed 9-18-08; 8:45 am]

BILLING CODE 4710-25-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0915]

RIN 1625-AA00

#### Temporary Safety Zone; Wreckage of the M/V NEW CARISSA, Pacific Ocean 3 Nautical Miles North of the Entrance to Coos Bay, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of the Pacific Ocean encompassed in the 1,000 yard radius surrounding the wreckage of the M/V NEW CARISSA located 3 nautical miles north of the entrance to Coos Bay, Oregon. The Captain of the Port Portland is taking this action to safeguard individuals and vessels involved in a salvage operation involving the M/V NEW CARISSA. Entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representative.

**DATES:** This regulation is effective from 12:01 p.m. August 31, 2008, to 12 p.m. September 30, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0915 and are available online at [www.regulations.gov](http://www.regulations.gov). They are also available for inspection or copying at

two locations: 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, and Coast Guard Sector Portland, 6767 N. Basin Ave., Portland, OR 97217, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call MST1 Jaime Sayers, Waterways Management, at (503) 240-9311. 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 protect human safety of those involved in the salvage operations of the NEW CARISSA. Such action will be taken by limiting public access to the salvage area. For those same reasons 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**.

##### Background and Purpose

This rule is related to the safety zone published in the **Federal Register** on June 27, 2008 (73 FR 36433). In that rule the Coast Guard established a temporary safety zone on the waters of the Pacific Ocean encompassed in the 1,000 yard radius surrounding the wreckage of the M/V NEW CARISSA located 3 nautical miles north of the entrance to Coos Bay, Oregon. The Captain of the Port Portland took that action to safeguard individuals and vessels involved in a salvage operation involving the wreck of the M/V NEW CARISSA.

With this rule, for the same reasons as stated above, the Coast Guard is establishing a safety zone in the same area because individuals involved in the

salvage operation of the NEW CARISSA have not completed their task.

Entry into this safety zone is prohibited from 12:01 p.m. August 31, 2008 to 12 p.m. September 30, 2008, unless authorized by the Captain of the Port or his designated representative. This safety zone will be enforced by representatives of the Captain of the Port Portland. The Captain of the Port may be assisted by other federal, state, and local agencies.

##### Discussion of Rule

This rule, for safety concerns, will control vessels, personnel, and individual movements on the waters of the Pacific Ocean encompassed in the 1,000 yard radius surrounding the wreckage of the M/V NEW CARISSA located 3 nautical miles north of the entrance to Coos Bay, Oregon. Entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representative. Coast Guard Personnel and local law enforcement will enforce this safety zone.

##### 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 regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the safety zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), 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 a small area of the Pacific Ocean along the Oregon Coast encompassed in the 1,000 yard radius surrounding the wreckage of the M/V NEW CARISSA located 3 nautical miles north of the entrance to Coos Bay, Oregon. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the safety zone applies to a small portion of the Pacific Ocean, entities wishing to transit in the vicinity may pass outside of the safety zone to continue their transit. We will issue a broadcast notice to mariners on the affected portion of the Pacific Ocean.

#### 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 may better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact 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.

#### 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 proposed 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 would 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule 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 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 Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, 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 that under the instruction 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 because it establishes a safety zone.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" 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, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 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. A temporary section in 165.T13–067 is added to read as follows:

**§ 165.T13–067 Safety Zone; Wreckage of the M/V NEW CARISSA, Pacific Ocean 3 Nautical Miles North of the Entrance to Coos Bay, Oregon.**

(a) Location. The following area is a safety zone: The waters of the Pacific Ocean encompassed by a 1000 yard radius surrounding the wreckage of the M/V NEW CARISSA located 3 NM north of the entrance to Coos Bay, Oregon.

(b) Enforcement period. This rule will be in effect from 12 p.m. September 2, 2008, to 12 p.m. September 30, 2008.

(c) Regulations. In accordance with the general regulations in Section 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representative.

Dated: September 2, 2008.

**F.G. Myer,**

*Captain, U.S. Coast Guard, Captain of the Port Portland.*

[FR Doc. E8–21886 Filed 9–18–08; 8:45 am]

**BILLING CODE 4910–15–P**

Dog Management Plan/Environmental Impact Statement (EIS) and special regulations for dog management, which are expected to be completed by winter 2010.

**DATES:** This rule is effective on October 20, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Brian O'Neill, General Superintendent, Golden Gate National Recreation Area, Fort Mason, (415) 561–4728.

**SUPPLEMENTARY INFORMATION:**

**Background**

In November 2006 and July 2007, Golden Gate National Recreation Area (GGNRA) adopted emergency regulatory provisions under 36 CFR 1.5, requiring all dogs to be on-leash when plovers are present on a portion of Crissy Field designated as the Wildlife Protection Area (WPA) and on a portion of Ocean Beach designated as the Snowy Plover Protection Area (SPPA). Emergency restrictions in these two areas were established for the protection of the federally listed Western Snowy Plover. These emergency restrictions are temporary and necessary until the completion of this rulemaking.

Habitat degradation caused by human disturbance, urban development, introduced beachgrass (*Ammophila* spp.), and expanding predator populations has resulted in a decline in active nesting areas and in the size of the breeding and wintering populations. (Source: *Recovery Plan for the Pacific Coast Population of the Western Snowy Plover (Charadrius alexandrinus nivosus)*, Volume 1: Recovery Plan, 8/13/2007.)

The plover's threatened status affords it protection from harassment. The regulations that implement the Act define "harass" as "an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering."

On November 20, 2007, the NPS published in the **Federal Register** a proposed rule (72 FR 65278) to provide for the protection of the Western Snowy Plover (*Charadrius alexandrinus nivosus*), a species listed as threatened under the Endangered Species Act. A 60-day public comment period closed on January 22, 2008. The National Park Service (NPS) received 1,574 comments on the proposed rule.

**Summary of Comments**

*Enforcement* (This topic was the subject of the greatest number of comments.)

1. *Comment:* Stiff fines are essential and a stronger presence of park law enforcement personnel is both necessary and appropriate. Increased enforcement of current rules would be insufficient to protect the Western Snowy Plover (hereafter referred to as plover). Commenters also cited a lack of enforcement action by park rangers. Some commenters supporting the proposed rule believed that strong enforcement of a clearly understood rule would be the best protection measure for the plover.

Recommendations offered regarding improved enforcement included:

- Focusing on enforcement of existing rules for wildlife harassment rather than creating new rules,
- Developing an adequate enforcement plan and obtaining necessary funding, and
- Increasing park ranger presence at the two sites and issuing citations to those visitors whose dogs actually chase and harass plovers.

*Response:* The park will implement several measures to support enforcement of regulations to protect the plovers. A Plover Docent Program for education and outreach was established in March 2008. Seasonal staff will be added to allow increased enforcement throughout the park, including plover areas. Additionally, the final rule has specific starting and ending dates for the annual restriction which will aid both public understanding and enforcement. Fines for violations of park regulations are determined by the Federal Court and are not within the purview of the NPS.

*Fences/Enclosures*

2. *Comment:* Some commenters felt fences or other enclosures were a problem and others felt they were a possible solution for accommodating off-leash dog recreation. Those who opposed fencing/enclosures either felt they would be too confining for dogs and their owners or that there were already too many fences in the park/city/world. Those who proposed the idea believed fences/enclosures would be a good compromise that would still allow dogs a space to play.

*Response:* This rule was developed to protect the snowy plover in the interim while the park completes the Dog Management Plan/EIS. The possibility of using fencing or barriers to separate dogs from the plover protection areas will be analyzed in the Dog Management EIS currently being developed by the NPS.

**DEPARTMENT OF THE INTERIOR**

**National Park Service**

**36 CFR Part 7**

**RIN 1024–AD53**

**Special Regulation: Areas of the National Park System**

**AGENCY:** National Park Service, Interior.

**ACTION:** Final Rule.

**SUMMARY:** This final rule provides for the protection of the Western Snowy Plover (*Charadrius alexandrinus nivosus*), a species listed as threatened under the Endangered Species Act. Western Snowy Plovers spend approximately 10 months of the year within Golden Gate National Recreation Area (GGNRA), both at Crissy Field and Ocean Beach. This rulemaking will provide temporary protection for plovers in those two areas until a permanent determination is made through the planning process for the entire park. The park is developing a