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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 160413330-6330-01]

RIN 0648-BF99

**Delay of Discharge Requirements for U.S. Coast Guard Activities
in Greater Farallones and Cordell Bank National Marine
Sanctuaries**

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule; notification of delay of effectiveness for discharge requirements with regard to U.S. Coast Guard activities.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) expanded the boundaries of Gulf of the Farallones National Marine Sanctuary (now renamed Greater Farallones National Marine Sanctuary or GFNMS) and Cordell Bank National Marine Sanctuary (CBNMS) to an area north and west of their

previous boundaries with a final rule published on March 12, 2015. The final rule entered into effect on June 9, 2015. At that time, NOAA postponed, with regard to U.S. Coast Guard (USCG) activities, the effectiveness of the discharge requirements for six months in the regulations for both sanctuaries in the newly added areas. Since then, NOAA published four documents to extend the postponement of the discharge requirements to provide adequate time for completion of an environmental assessment, and subsequent rulemaking regarding USCG activities, as appropriate. The current extension would end on December 9, 2017. This document, published concurrently with a proposed rule to address discharges by the USCG and an environmental assessment, will extend the postponement of the discharge requirements for USCG activities in the expansion areas of GFNMS and CBNMS for one year beyond the end of the current extension to provide adequate time for completion, if appropriate, of a final environmental assessment and final rule. This extension will end on December 9, 2018, or 30 days after publication of a final rule, whichever comes first.

DATES: The effectiveness for the discharge requirements in both CBNMS and GFNMS expansion areas with regard to USCG activities is December 9, 2018.

ADDRESSES: Copies of documents relating to the expansion, including the Final Environmental Impact Statement (FEIS), final management plans, and the final rule published on March 12, 2015, can be viewed or downloaded at https://farallones.noaa.gov/manage/expansion_cbgf.html.

FOR FURTHER INFORMATION CONTACT: Maria Brown, Greater Farallones National Marine Sanctuary Superintendent, at Maria.Brown@noaa.gov or 415-561-6622.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2015, NOAA expanded the boundaries of Gulf of the Farallones National Marine Sanctuary (now renamed Greater Farallones National Marine Sanctuary or GFNMS) and Cordell Bank National Marine Sanctuary (CBNMS) to an area north and west of their previous boundaries with a final rule (80 FR 13078). The final rule entered into effect on June 9, 2015 (80 FR 34047).

In the course of the rulemaking to expand GFNMS and CBNMS, NOAA learned from U.S. Coast Guard (USCG) that the discharge regulations had the potential to impair the operations of USCG vessels and aircraft conducting law enforcement and on-water training exercises in GFNMS and CBNMS expansion areas. The USCG supports national marine sanctuary management by providing

routine surveillance and dedicated law enforcement of the National Marine Sanctuaries Act (NMSA) and sanctuary regulations. To ensure that the March 12, 2015, rule did not undermine USCG's ability to perform its duties, at that time, NOAA postponed the effectiveness of the discharge requirements in both sanctuaries' regulations with regard to USCG activities in the expansion areas for six months. Four additional six-month postponements of the effectiveness of the discharge requirements were published in the Federal Register on December 1, 2015 (80 FR 74985), May 31, 2016 (81 FR 34268), December 6, 2016 (81 FR 87803), and June 7, 2017 (82 FR 26339) to provide adequate time for completion of an environmental assessment and to determine NOAA's next steps. Without further NOAA action, the discharge regulations will become effective, with regard to USCG activities, on December 9, 2017.

However, NOAA is currently considering whether, among other things, to exempt certain USCG activities in sanctuary regulations and is concurrently publishing a proposed rule and draft environmental analysis to seek comment on the potential exemption. NOAA is therefore postponing the effectiveness of the discharge requirements in the expansion areas of both sanctuaries with regard to USCG activities for one year until December 9, 2018, or 30 days after publication of a final rule,

whichever comes first, to provide adequate time for completion of a final environmental assessment and final rule, as appropriate. The proposed rule and related environmental analysis associated with this action will give the public, other federal agencies, and interested stakeholders an opportunity to comment on various alternatives that are being considered.

II. Classification

A. National Environmental Policy Act

NOAA previously conducted an environmental analysis under the National Environmental Policy Act (NEPA) as part of the rulemaking process leading to the expansion of CBNMS and GFNMS, which addressed regulations regarding the discharge of any matter or material in the sanctuaries. Potential environmental impacts of the decision to postpone effectiveness are sufficiently encompassed within the impacts analysis of the environmental baseline and the no action alternative presented in that analysis. Should NOAA decide to amend the regulations governing discharges for USGS activities in CBNMS and GFNMS, any additional environmental analysis required under NEPA would be prepared and released for public comment.

B. Executive Order 12866: Regulatory Impact

This action has been determined to be not significant under Executive Order 12866.

C. Executive Order 13771: Regulatory Reform

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

D. Administrative Procedure Act

The Assistant Administrator of National Ocean Service (NOS) finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive the notice and comment requirements of the Administrative Procedure Act (APA) because this action is administrative in nature. This action postpones the effectiveness of the discharge requirements in the regulations for CBNMS and GFNMS in the areas added to the sanctuaries' boundaries in 2015, that underwent notice and comment review, with regard to USCG activities for one year to provide adequate time for public scoping, completion of an environmental assessment, and concurrent rulemaking on how to address the USCG activities, as appropriate. The substance of the underlying regulations currently remains unchanged. Therefore, providing notice and opportunity for public comment under the APA would serve no useful purpose. For the reasons

above, the Assistant Administrator also finds good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness and make this action effective immediately upon publication.

Authority: 16 U.S.C. 1431 et seq.

Dated: November 14, 2017.

Nicole R. LeBoeuf,
Deputy Assistant Administrator
for Ocean Services and Coastal Zone Management,
National Ocean Service.

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