

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESS" in this preamble. Commenters should include their names and addresses, identify the docket number for the regulations, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are LTJG C.W. Jennings, project officer, Captain of the Port, New York, and LT R.E. Korroch, project attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation result from ongoing activities at the Military Ocean Terminal, Bayonne, New Jersey in support of "Operation Desert Shield". These activities include but are not limited to the storage, loading and transport of military cargoes or personnel on property chartered by or wholly owned by the United States. This regulation commences at 0700 on 30 November 1990.

This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 USC 1225 and 1231; 50 USC 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 33 CFR 160.5.

2. A new § 165.T1204 is added to read as follows:

§ 165.T1204 Security Zone: Upper Bay of New York Harbor at Bayonne, NJ

(a) *Location.* The following areas are established as Security Zones during the specified conditions:

(1) That portion of the Upper Bay of New York Harbor within the waters bound by a line drawn from the northeast corner of Global Marine Terminal, Bayonne, New Jersey thence east southeast to the Gowanus Flats Lighted Gong Buoy 27 (LLN 32295)

thence south southwest to the Kill Van Kull Lighted Junction Buoy "KV" (LLN 34505) thence west northwest to Exxon Pier 7 at Constable Hook, Bayonne, New Jersey thence northerly along the shoreline to origin during the loading, unloading, storage, embarkation or disembarkation of military cargoes or personnel used in support of "Operation Desert Shield".

(2) The waters of the Upper Bay and Lower Bay of New York Harbor and Ambrose Channel within 500 yards fore and aft and 200 yards port and starboard of any vessel involved in support activities for "Operation Desert Shield" as it transits those waters.

(3) The waters of the Upper Bay and Lower Bay of New York Harbor within a 500 yard radius of any vessel involved in support activities for "Operation Desert Shield" as it lies at anchor in those waters.

(b) *Effective date.* This regulation becomes effective at 7 a.m. local time 30 November 1990 and should remain in effect unless terminated by the Captain of the Port, New York.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port.

Dated: November 30, 1990.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 91-680 Filed 1-10-91; 8:45 am]

BILLING CODE 4910-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AE93

Concurrent Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations on concurrent benefits. This change is necessary in order to implement a recent VA General Counsel opinion which held that temporary disability compensation paid by a military service to a member of a reserve component who was incapacitated during training does not constitute active service pay. The intended effect of this amendment is to allow payment of VA benefits to reservists who receive such payments.

EFFECTIVE DATE: April 30, 1990.

FOR FURTHER INFORMATION CONTACT: Don England, Chief, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: Based upon a VA General Counsel opinion issued in 1958, VA regulations prohibit payment of VA benefits to a member of a reserve component who is receiving "sick pay" or "incapacitation pay" after his or her training tour has expired. In an opinion issued April 30, 1990 (O.C. Prec. 10-90), however, the General Counsel noted that the nature of this disability pay has changed in several important regards since the 1950's. Under current law a reservist incapacitated while training is no longer treated exactly as a member of the regular services who is incapacitated in line of duty, and the reservist is not guaranteed full pay and allowances since there are offsets for nonmilitary earned income. The recent General Counsel opinion held that temporary disability compensation paid to a reservist incapacitated on a training tour does not represent payment for duty performed and that it is no longer valid for VA to include "sick pay" and "incapacitation pay" in its definition of active service pay. Accordingly, we are amending 38 CFR 3.700(a)(1)(i) to delete any reference to those benefits.

The Department of Veterans Affairs is issuing a final rule to amend the provisions of 38 CFR 3.700(a)(1)(i). This change is necessary to conform the regulatory provisions with the VA General Counsel precedent opinion referenced above. Because this amendment constitutes a liberalizing change relieving a restriction and an interpretive rule, publication as a proposal for public notice and comment is unnecessary. For the same reasons, this amendment is retroactively effective on April 30, 1990, the date of the precedent opinion upon which it is based.

Since a notice of proposed rulemaking is unnecessary and will not be published, this amendment is not a "rule" as defined in and made subject to the Regulatory Flexibility Act, 5 U.S.C. 601(2). In any case, this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. This amendment will not directly affect any small entity.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory

amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of \$100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Pensions, Veterans.

Approved: December 11, 1990.

Edward J. Derwinski,
Secretary of Veterans Affairs.

PART 3—[AMENDED]

38 CFR part 3, Adjudication, is amended as follows:

In § 3.700; paragraph (a)(1)(i), the authority citation is removed at the end of the first sentence, the second and third sentences are removed, and a new authority citation is added at the end of the paragraph to read as follows:

§ 3.700 General.

* * * * *

(a) *Veterans*—(1) *Active service pay*.

(i) * * *

Authority: 38 U.S.C. 3104(c).

* * * * *

[FR Doc. 91-729 Filed 1-10-91; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Miscellaneous Amendments

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service hereby describes the numerous miscellaneous revisions consolidated in the Transmittal Letter for issue 37 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations, see 39 CFR 111.1. These revisions are minor, editorial, or clarifying.

EFFECTIVE DATE: December 16, 1990.

FOR FURTHER INFORMATION CONTACT: Catherine V. Pagano, (202) 268-2969.

SUPPLEMENTARY INFORMATION: The Domestic Mail Manual has been

amended by the publication of a transmittal letter for issue 37, dated December 16, 1990. The text of all published changes is filed with the Director of the Federal Register. Subscribers to the Domestic Mail Manual receive these amendments automatically from the Government Printing Office. The following Summary of Changes section of the transmittal for issue 37 covers the minor changes not previously described in interim or final rules published in the Federal Register.

Summary of Changes

Chapter 1

Exhibit 113.76, *Holiday Service Levels*, is revised to show which national holidays the Postal Service currently designates as widely observed and not widely observed. Such designations help determine the services provided on those days. Memorial Day, formerly listed as a holiday not widely observed, is included with the other holidays designated as widely observed. Veterans Day is now grouped with those holidays designated as not widely observed.

Exhibits 122.63c-1 are revised to reflect changes in mail processing operations, especially changes in the labeling of mail for the U.S. Virgin Islands, identified by ZIP Code prefix 008. Boldface type indicates the changes. (*Postal Bulletin* 21773, 10-4-90)

Section 124.63b(1)(b) restricts the sending of adult birds by Express Mail to shipments expected to be delivered the next day. (*Postal Bulletin* 21772, 9-20-90)

Section 137.252f is added to explain two abbreviations used in the government agency code list found in 137.253. Agencies that process mail commercially are identified by the letters "NA" (not available) or "C" (commercial).

Section 137.253 is updated to reflect the addition of five government agencies, the deletion of six agencies, the separate listings of 13 branches within the U.S. Department of Labor, and changes to several sampling and business reply mail numbers. Boldface type indicates these changes.

Section 137.272b(5) and Exhibits 137.272a(3)-(5) are changed to describe and illustrate the new designs and formats required for standard Postal Service penalty indicia envelopes. (*Postal Bulletin* 21776, 11-15-90)

Section 145.12, *Application*, now requires postmasters to issue unique numbers to permit imprint holders. This section clarifies the procedures used for the filing of an application, explains other fees that may be required, and

describes the assignment of permit numbers. (*Postal Bulletin* 21775, 11-1-90)

Sections 145.755, 145.861, 145.862, 145.863, and 145.926f are added. **Section 145.854** is a renumbering of 145.86. These additions provide the qualifications for mailers at Stage I of the System Certification Program at the time of their authorization to use a Manifest Mailing System (MMS), Optional Procedure (OP) Mailing System, or Alternate Mailing System (AMS) after October 1, 1990. (*Postal Bulletin* 21776, 11-15-90)

Part 149, *Indemnity Claims*, reflects changes that now allow more time for follow-up claims (duplicates, inquiries, etc.) on insured, registered, and COD mail. Several revised sections within this part clarify the requirement that customers must present the mailing container and its packaging to the Postal Service when a claim is filed for damage or partial loss. (*Postal Bulletin* 21775, 11-1-90)

Section 153.82, *Unprotected Places*, is revised to implement new procedures for the delivery of uninsured parcels. Unless endorsed by the mailer with the words "Carrier Release" or requested by a written order from the addressee, parcels shall not be placed on porches, steps, or any other unprotected area. (*Postal Bulletin* 21775, 11-1-90)

Sections 159.435 and 159.485 are amended to define unidentified articles of value as those valued at \$10 or more. **Sections 159.523 and 159.54** are revised to show that requests for the disposal of undeliverable books and sound recordings, as well as requests for the use of undeliverable bulk third-class mail for Postal Service studies and developmental programs, must be sent to the General Manager, Business Requirements Division, Office of Classification and Rates Administration, U.S. Postal Service Headquarters. (*Postal Bulletin* 21774, 10-18-90)

Section 165.2, *Presentations*, is revised in response to the recently changed titles of some of the officials who approve the use of postage and other philatelic products for Postal Service presentations.

Chapter 3

Sections 364.122, 367.212, 367.221, 367.222, 367.232, 369.3, and Exhibit 367.1 are amended to require a green Label 3 instead of a yellow Label C on packages prepared when 50 pieces or more—but less than a full tray—remain for a city with a unique 3-digit ZIP Code prefix, after the 5-digit ZIP Code delivery unit packages have been prepared. (*Postal Bulletin* 21772, 9-20-90)

Sections 367.32d, 444.24d, 641.411d, and 767.811c remind presort mailers that they may include carrier route information on pieces in a mailing that do not qualify for the carrier route presort discount. (*Postal Bulletin* 21772, 9-20-90)

Chapter 4

Section 429.5, *Enveloping and Wrapping, Sealing, and Folding*, is revised and reorganized to require that all single copies of second-class publications mailed to APO/FPO addresses must be enclosed in wrappers or envelopes. (*Postal Bulletin* 21777, 11-29-90)

Chapter 6

Section 652.2, *Separation of Mailings*, now cites 644.17 as a reminder that authorized mailers may commingle mixed level third-class mail on pallets. (*Postal Bulletin* 21774, 10-18-90)

Chapter 9

Sections 917.527a, 917.591, and 917.593 now permit the use of business reply labels on letter-size envelopes. (*Postal Bulletin* 21772, 9-20-90)

List of Subjects in 39 CFR Part 111

Postal service.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 5001.

2. In consideration of the foregoing, the table at the end of § 111.3(e) is amended by adding at the end thereof the following:

§ 111.3 Amendments to the Domestic Mail Manual.

* * * * *

Transmittal letter for issue	Dated	Federal Register publication
37	December 16, 1990.	56 FR [insert FR page number].

Stanley F. Mires,
Assistant General Counsel, Legislative Division.

[FR Doc. 91-622 Filed 1-10-91; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 232

Updating of Authority Citation

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of this document is to update the authority citation for part 232 by substituting a reference to the most recently enacted appropriation act.

EFFECTIVE DATE: November 5, 1990.

FOR FURTHER INFORMATION CONTACT: Catherine V. Pagano, (202) 268-2969.

SUPPLEMENTARY INFORMATION:

List of Subjects in 39 CFR Part 232

Law enforcement, Postal service.

PART 232—[AMENDED]

The authority citation for part 232 is revised to read as set forth below:

Authority: 39 U.S.C. 401, 403(b)(3), 404(a)(7); 40 U.S.C. 318, 318a, 318b, 318c; section 609, Treasury, Postal Service and General Government Appropriations Act, 1991, Pub. L. 101-509; 18 U.S.C. 13, 3061; 21 U.S.C. 802, 844. Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 91-621 Filed 1-10-91; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL 3896-5]

Ocean Dumping; Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates the dredged material disposal site located offshore of San Diego, California (LA-5) for the disposal of suitable dredged material removed from the Port of San Diego and other nearby harbors or dredging sites. The LA-5 site is approximately 5.4 nautical miles southwest of Point Loma and occupies an area of about 0.77 square nautical miles (2.6 square kilometers). Water depths within the area are between 480 and 660 feet (145 and 200 meters). The center coordinates of the site are: 32° 36.83' North latitude and 117° 20.67' West longitude (North American Datum from 1927), with a radius of 3,000 feet (910 meters). This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of dredged material. The final LA-5 site designation is for an indefinite period, and the site is subject to management and monitoring programs to ensure that unacceptable adverse environmental impacts do not occur.

DATES: This designation shall become effective February 11, 1991.

FOR FURTHER INFORMATION CONTACT:

Mr. Patrick Cotter, Regional Ocean Disposal Coordinator, U.S. Environmental Protection Agency, Region IX, W-7-1, 75 Hawthorne Street, San Francisco, California 94105, telephone (415) 744-1985 or FTS 484-1985. The file supporting this designation (including the Proposed Rule, the Final Environmental Impact Statement, the Coastal Consistency Determination, the Science Applications International Corporation (1990) survey, the fish block data from 1984 to 1988, the EPA Region IX August 1989 sediment testing requirements, the Management Plan and the Site Monitoring Program) are available for public inspection at the following locations:

1. EPA Public Information Reference Unit (PIRU), room 2904 (rear), 401 M Street, SW., Washington, DC.
2. EPA Region IX, Library, 75 Hawthorne Street, 13th Floor, San Francisco, California.
3. U.S. Army Corps of Engineers, Los Angeles District, Library, 300 North Los Angeles Street, Los Angeles, California.
4. Port of San Diego, Clerks Office, 3165 Pacific Highway, San Diego, California.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA authority to designate sites where ocean dumping may be permitted. On October 1, 1986 the Administrator delegated authority to designate ocean dredged material disposal sites (ODMDS) to the Regional Administrator of the EPA Region in which the sites are located. The LA-5 site designation action is being made pursuant to that authority.

The EPA Ocean Dumping Regulations state that ocean dumping sites will be designated by publication in 40 CFR part 228 (40 CFR 228.4). A list of "Approved Interim and Final Ocean Dumping Sites" was published on January 11, 1977 (42 FR 2462) and was last extended on August 24, 1984 (49 FR 33647). That list established the Point Loma ODMDS (LA-4) in 300 feet of water and the LA-5 site as interim sites. The interim designation status of the LA-4 and LA-5 sites was cancelled after December 31, 1988 when time expired on a 1980 Consent Agreement between EPA and the National Wildlife Federation to have selected ocean dredged material disposal site designated. The LA-4 site was never used as a dredged material disposal site. Since LA-4 was cancelled,