

State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) 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 cause 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 that 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. This rule involves the establishment of a temporary 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 record keeping 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, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T13-150 to read as follows:

**§ 165.T13-150 Safety Zone; Fleet Week Maritime Festival, Pier 66, Elliott Bay, Seattle, WA**

(a) *Location.* The following area is a safety zone: All waters extending 100

yards from Pier 66, Elliott Bay, WA within a box encompassed by the points 47°36.719' N 122°21.099' W, 47°36.682' N 122°21.149' W, 47°36.514' N 122°20.865' W, and 47°36.552' N 122°20.814' W (NAD 83).

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no vessel operator may enter or remain in the safety zone without the permission of the Captain of the Port or Designated Representative, thirty minutes prior to the beginning of the parade of ships and thirty minutes following the conclusion of the parade of ships on August 4th, 2010. The Coast Guard will provide notice to the public of enforcement of this zone through both the Local Notice to Mariners and marine information broadcast on the day of the event.

For the purposes of this rule the Parade of Ships includes both the pass and review of the ships near Pier 66 and the aerial demonstrations immediately following the pass and review. The Captain of the Port may be assisted by other federal, state, or local agencies with the enforcement of the safety zone.

(c) *Authorization.* All vessel operators who desire to enter the safety zone must obtain permission from the Captain of the Port or Designated Representative by contacting the on scene patrol craft on VHF Ch 16 or the Coast Guard Sector Seattle Joint Harbor Operations Center (JHOC) via telephone at (206) 217-6001. Vessel operators granted permission to enter the zone will be escorted by the on-scene Coast Guard patrol craft until they are outside of the safety zone.

(d) *Effective Period.* This rule is effective from 8 a.m. until 8 p.m. on August 4, 2010, unless canceled sooner by the Captain of the Port.

Dated: June 5, 2010.

**S.W. Bornemann,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 2010-14849 Filed 6-18-10; 8:45 am]

**BILLING CODE 9110-04-P**

### DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 165

[Docket No. USCG-2010-0542]

**RIN 1625-AA00**

**Safety Zones: Neptune Deep Water Port, Atlantic Ocean, Boston, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing two temporary safety zones extending 500 meters in all directions from each of the two submerged turret loading (STL) buoys and accompanying systems that are part of GDF Suez Energy's Neptune Deepwater Port located in the Atlantic Ocean off of Boston, Massachusetts. The purpose of these temporary safety zones is to protect vessels and mariners from the potential safety hazards associated with construction of the deepwater port facilities and the large sub-surface turret buoys, and to protect the deepwater port infrastructure. All vessels, with the exception of deepwater port support vessels, are prohibited from entering into, remaining or moving within either of the safety zones.

**DATES:** This rule is effective in the CFR on June 21, 2010. This rule is effective with actual notice for purposes of enforcement from 12:01 a.m. June 12, 2010 until 11:59 p.m. December 31, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2010-0542 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0542 in the "Keyword" box, and then clicking "Search." This material is 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 Lieutenant Commander Pamela Garcia, Prevention Department, Coast Guard Sector Boston; telephone 617-223-3028, e-mail [Pamela.P.Garcia@uscg.mil](mailto:Pamela.P.Garcia@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. The deepwater port facilities discussed elsewhere in this rule are in the final stages of completion and present a potential safety hazard to vessels, especially fishing vessels, operating in the vicinity of submerged structures associated with the deepwater port facility. A more robust regulatory scheme, (NPRM; USCG-2009-0589), to ensure the safety and security of vessels operating in the area, was developed via separate rulemaking, and was available for review and comment at the Web site <http://www.regulations.gov>. These safety zones are needed pending implementation of a final regulatory action, which will be proposed in a separate rulemaking docket titled: Neptune Deep Water Port, Atlantic Ocean, Boston, MA; Final Rule (USCG-2009-0589), to protect vessels from the hazard posed by the presence of the currently uncharted, submerged deepwater infrastructure.

The current construction schedule that includes installation of underwater structures does not allow time to conduct a notice and comment period for this rule therefore publication of an NPRM is impractical. Further, delaying the effective date pending completion of notice and comment rulemaking is contrary to the public interest to the extent it would expose vessels currently operating in the area to the known, but otherwise uncharted submerged hazards.

For the reasons outlined above, the Coast Guard 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**. Further, a delay or cancellation of this portion of the construction to facilitate 30 days publication before the rule is made effective is contrary to the public's interest in the timely completion of this project.

##### **Basis and Purpose**

On March 23, 2007, the Maritime Administration (MARAD), in accordance with the Deepwater Port Act of 1974, as amended, issued a license to Suez Energy to own, construct, and operate a natural gas deepwater port, "Neptune". Neptune Deepwater Port (NEPTUNE) is located in the Atlantic Ocean, approximately eight nautical miles South-southeast of Gloucester, Massachusetts, in Federal waters. The two STL buoys, which are circled at approximately 500 meters on the surface

of the water by several small white buoys labeled LNG with red flags and radar-reflected buoys known as Hi Flyers are located in the following approximate positions: STL Buoy A: Latitude 42°29'12.3" N, Longitude 070°36'29.7" W; and, STL Buoy B: Latitude 42°27'20.5" N, Longitude 070°36'07.3" W. The Neptune Deepwater Port can accommodate the mooring, connecting, and offloading of two liquefied natural gas carriers (LNGCs) at one time. The Neptune Deepwater Port operator plans to offload LNGCs by regasifying the liquefied natural gas (LNG) on board the vessels. The regasified natural gas is then transferred through two STL buoys, via a flexible riser leading to a seabed pipeline that ties into the existing Algonquin Gas Transmission Pipeline for transfer to shore. GDF Suez recently completed installation of the STL buoys and associated sub-surface infrastructure, which includes, among other things, a significant sub-surface sea anchor and mooring system. The temporary zones created by this rule ensures that there is no gap in safety regulations so as to ensure the safety of persons and vessels operating around the submerged deepwater port infrastructure while public comments on the NPRM creating permanent regulations around the Neptune Deepwater Port facility are analyzed and final regulatory action is completed.

##### **Discussion of Rule**

The Coast Guard is establishing two temporary safety zones of 500 meters in radius around the two Neptune Deepwater Port STL buoys as described above to protect vessels from these submerged hazards. All vessels, other than Liquefied Natural Gas carriers and associated support vessels are prohibited from entering into, remaining or moving within the safety and security zones.

##### **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.

This regulation is not significant as it establishes a safety zone around the buoys and under water infrastructure of the Neptune Deep Water Port. Extensive outreach has been conducted by the company, GDF Suez Energy, with the local boating and fishing community so as to minimize impacts. In addition, the company has stationed a vessel at the location of the Neptune project to notify vessels potentially conducting under water operations of the local dangers.

#### **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 fishing and recreational vessels intending to transit or anchor in a portion of the Atlantic Ocean, Massachusetts Bay area covered by this rule. These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons. These two safety zones only extend for 500 meters from each of the STL buoys allowing navigation in all other areas of Massachusetts Bay and public notification of the safety and the inherent dangers of the STL buoys and underwater equipment will continue to be made by the Coast Guard as well as Neptune personnel.

#### **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 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This rule will not cause 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 M16475.1D, 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. This rule

involves the creation of two safety zones around a submerged buoy and its associated infrastructure. An environmental analysis checklist and a 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, 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; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0542 to read as follows:

#### § 165.T01–0542 Safety Zones: Neptune Deepwater Port, Atlantic Ocean, Boston, MA.

(a) *Location.* The following areas are safety zones: All navigable waters of the United States within a 500-meter radius of each of the two STL buoys of the Neptune Deepwater Port, marked on the surface of the water by several small, white buoys labeled LNG with red flags and radar-reflected buoys known as “Hi Flyers” located at approximate positions 42°29′12.3″ N, 070°36′29.7″ W and 42°27′20.5″ N, 070°36′07.3″ W. [NAD83].

(b) *Notification.* Coast Guard Sector Boston will cause notice of the enforcement of this temporary safety zone to be made by all appropriate means to affect the widest publicity among the effected segments of the public, including publication in the Local Notice to Mariners and Broadcast Notice to Mariners.

(c) *Enforcement Period.* This safety zone will be enforced at 12:01 a.m. Saturday June 12, 2010 until 11:59 p.m. December 31, 2010.

(d) *Definitions.* As used in this section:

*Authorized representative* means a Coast Guard commissioned, warrant, or petty officer or a Federal, State, or local law enforcement officer designated by or assisting the Captain of the Port Boston (COTP).

*Deepwater port* means any facility or structure meeting the definition of deepwater port in 33 CFR 148.5.

*Support vessel* means any vessel meeting the definition of support vessel in 33 CFR 148.5.

#### (e) Regulations.

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations entry into or movement within these safety zones is prohibited unless authorized by the Captain of the Port Boston. Liquefied Natural Gas Carrier vessels and related Support Vessels calling on the Neptune Deepwater Port are authorized to enter and move within the safety zones of this section in the normal course of their operations.

(3) All persons and vessels shall comply with the Coast Guard Captain of the Port or authorized representative.

(4) Upon being hailed by an authorized representative by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

(5) Persons and vessels may contact the Coast Guard to request permission to enter the zone on VHF–FM Channel 16 or via phone at 617–223–5761.

Dated: June 9, 2010.

John N. Healey,

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

[FR Doc. 2010–14851 Filed 6–18–10; 8:45 am]

BILLING CODE 9110–04–P

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2010–0235]

RIN 1625–AA00

#### Safety Zone; Michigan City Super Boat Grand Prix, Lake Michigan, Michigan City, IN

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on Lake Michigan near Michigan City, Indiana. This zone is intended to restrict vessels from a portion of Lake Michigan due to a high speed boat racing event. This temporary safety zone is necessary to protect the surrounding public and their vessels from the hazards associated with a high speed boat racing event.

**DATES:** This regulation is effective from 9 a.m. until 4 p.m. on August 8, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble

as being available in the docket, are part of docket USCG–2010–0235 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0235 in the “Keyword” box, and then clicking “Search.” This material is 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, contact or e-mail Petty Officer Adam Kraft, U.S. Coast Guard Sector Lake Michigan, at (414) 747–7154 or [Adam.D.Kraft@uscg.mil](mailto:Adam.D.Kraft@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

On April 28, 2010, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Michigan City Super Boat Grand Prix, Lake Michigan, Michigan City, IN in the **Federal Register** (75 FR 22333). We received 0 comments on the proposed rule. No public meeting was requested and none was held.

##### Basis and Purpose

This temporary safety zone is necessary to protect vessels from the hazards associated with the Michigan City Super Boat Grand Prix. The Captain of the Port, Sector Lake Michigan, has determined that the Michigan City Super Boat Grand Prix presents a significant risk to public safety and property. The likely combination of congested waterways and high speed boat racing presents a significant risk of serious injuries or fatalities.

##### Discussion of Comments and Changes

No comments were received concerning this rule. No substantive changes have been made to the rule as proposed.

##### 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