

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[Docket No. USCG–2010–0444]****Safety Zone, Chicago Harbor, Navy Pier Southeast, Chicago, IL****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the Navy Pier Southeast Safety Zone in Chicago Harbor for annual fireworks events during nine separate periods between 8:45 p.m. on July 4, 2010 to 10 p.m. on July 31, 2010. This action is necessary and intended to ensure public safety during fireworks events. This rule will establish restrictions upon, and control movement of, vessels within the safety zone immediately prior to, during, and immediately after fireworks events. During the enforcement period, no person or vessel may enter the safety zone without permission of the Captain of the Port, Sector Lake Michigan.

**DATES:** The safety zone will be enforced during nine separate periods between 8:45 p.m. on July 4, 2010 to 10 p.m. on July 31, 2010.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail BM1 Adam Kraft, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at 414–747–7154, e-mail [Adam.D.Kraft@uscg.mil](mailto:Adam.D.Kraft@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce Safety Zone, Chicago Harbor, Navy Pier Southeast, Chicago, IL, listed under 33 CFR 165.931 for the following events:

- (1) *Navy Pier Fireworks*; on July 4, 2010 from 8:45 p.m. through 9:30 p.m.
- (2) *Navy Pier Fireworks*; on July 7, 2010 from 9:15 p.m. through 9:45 p.m.
- (3) *Navy Pier Fireworks*; on July 10, 2010 from 10 p.m. through 10:30 p.m.
- (4) *Navy Pier Fireworks*; on July 14, 2010 from 9:15 p.m. through 9:45 p.m.
- (5) *Navy Pier Fireworks*; on June 17, 2010 from 10 p.m. through 10:30 p.m.
- (6) *Navy Pier Fireworks*; on July 21, 2010 from 9:15 p.m. through 9:45 p.m.
- (7) *Navy Pier Fireworks*; on July 24, 2010 from 10 p.m. through 10:30 p.m.
- (8) *Navy Pier Fireworks*; on July 28, 2010 from 9:15 p.m. through 9:45 p.m.
- (9) *Navy Pier Fireworks*; on July 31, 2010 from 10 p.m. through 10:30 p.m.

All vessels must obtain permission from the Captain of the Port, Sector Lake Michigan, or his or her designated on-scene representative to enter, move

within or exit the safety zone. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port, Sector Lake Michigan, or his or her designated on-scene representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This document is issued under authority of 33 CFR 165.931 Safety Zone, Chicago Harbor, Navy Pier Southeast, Chicago IL and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port, Sector Lake Michigan, will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended. If the Captain of the Port, Sector Lake Michigan, determines that the safety zone need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone. The Captain of the Port, Sector Lake Michigan, or his or her designated on-scene representative may be contacted via VHF–FM Channel 16.

Dated: June 2, 2010.

**L. Barndt,**

*Captain, U.S. Coast Guard, Captain of the Port, Sector Lake Michigan.*

[FR Doc. 2010–14588 Filed 6–16–10; 8:45 am]

**BILLING CODE 9110–04-P**

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[Docket No. USCG–2010–0091]****RIN 1625–AA00****Safety Zone, Alligator River, NC****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of the Alligator River at East Lake, North Carolina. The safety zone is intended to temporarily restrict vessel traffic movement in the zone area and is necessary to provide for the safety of mariners on navigable waters during maintenance on the U.S. Highway 64 Swing Bridge.

**DATES:** This rule is effective from 7 p.m. July 1, 2010 through 7 a.m. September 30, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0091 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0091 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 or e-mail CWO4 Stephen Lyons, Waterways Management Division Chief, Coast Guard Sector North Carolina; telephone (252) 247–4525, e-mail [Stephen.W.Lyons2@uscg.mil](mailto:Stephen.W.Lyons2@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) because the publishing of an NPRM would be impracticable and contrary to public interest since immediate action is needed to ensure the public’s safety during construction activity. Delaying the implementation of the safety zone would subject the public to the hazards associated with maintenance operations on the US Highway 64 Swing Bridge. The danger posed by marine traffic on the Alligator River makes safety zone regulations necessary to provide for the safety of construction support vessels and other vessels transiting the construction area. For the safety concerns noted, it is in the public interest to have these regulations in effect during construction. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of

navigational restrictions. On-scene Coast Guard and local law enforcement vessels will also provide actual notice to mariners.

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**. Delaying the effective date would be contrary to public interest, since immediate action is needed to ensure the safety of human life and property from the hazards associated with the operation of heavy equipment in the waterway during bridge maintenance operations.

### **Basis and Purpose**

The State of North Carolina Department of Transportation awarded a contract to Coastal Gunit Construction Company of Cambridge, MD to perform bridge maintenance on the U.S. Highway 64 Swing Bridge crossing the Alligator River, North Carolina at Atlantic Intracoastal Waterway Mile 84.2. The contract provides for cleaning, painting, and steel repair to begin on July 1, 2010 and will be completed by September 30, 2010. The contractor will require the swing bridge to remain in the closed position during painting. The Coast Guard will temporarily restrict access to this section of Alligator River during the painting of the swing when maintenance equipment will be obstructing the waterway.

### **Discussion of Rule**

The temporary safety zone will encompass a 100 yard radius on the waters of the Alligator River centered at (35°54'3" N/076°00'25" W) a position directly under the U.S. Highway 64 Swing Bridge. All vessels are prohibited from transiting this section of the waterway while the safety zone is in effect. This zone will be in effect from 7 p.m. to 7 a.m. daily from July 1, 2010 through September 30, 2010. A daily opening will be provided at 1 a.m. if a two hour advanced notice is provided to the contractor by contacting the bridge at telephone number (252) 796-7261 or VHF Marine Band Radio channel 13. Entry into the zone at any other time during the closure period will not be permitted except as specifically authorized by the Captain of the Port or a designated representative. To seek permission to transit the area, mariners can contact Sector North Carolina at telephone number (252) 247-4570.

### **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 will restrict access to the area, the effect of this rule will not be significant because: (i) The safety zone will only be in effect from 7 p.m. to 7 a.m. daily, (ii) a daily opening will be provided at 1 a.m. if a two hour advanced notice is provided to the contractor by contacting the bridge at telephone number (252) 796-7261 or VHF Marine Band Radio channel 13 (iii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iv) although the safety zone will apply to the section of the Alligator River directly under the U.S. Highway 64 Swing Bridge, vessel traffic can use alternate waterways to transit safely around the safety zone.

### **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 commercial tug and barge companies, recreational and commercial fishing vessels intending to transit the specified portion of Alligator River from 7 p.m. to 7 a.m. from July 1, 2010 through September 30, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will only be enforced daily from 7 p.m. to 7 a.m. and a daily opening will be provided at 1 a.m. if a two hour advanced notice is provided to the contractor by contacting the bridge at telephone number (252) 796-7261 or

VHF Marine Band Radio channel 13. Although the safety zone will apply to this section of the Alligator River, vessel traffic can use alternate waterways to transit safely around the safety zone. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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 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 temporary safety zone to protect the public from bridge maintenance operations. 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, 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.T05-0091 to read as follows:

#### § 165.T05-0091 Safety Zone; Alligator River, NC.

(a) *Definitions.* For the purposes of this section, Captain of the Port means the Commander, Sector North Carolina. *Representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: The temporary safety zone

will encompass a 100 yard radius on the waters of the Alligator River centered at (35°54'3" N/076°00'25" W) a position directly under the U.S. Highway 64 Swing Bridge.

(c) *Regulations.* (1) The general regulations contained in § 165.23 of this part apply to the area described in paragraph (b) of this section.

(2) Persons or vessels requiring entry into or passage through any portion of the safety zone must first request authorization from the Captain of the Port, or a designated representative, unless the Captain of the Port previously announced via Marine Safety Radio Broadcast on VHF Marine Band Radio channel 22 (157.1 MHz) that this regulation will not be enforced in that portion of the safety zone. The Captain of the Port can be contacted at (252) 247-4570 or by VHF Marine Band Radio channels 13 and 16.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) *Enforcement period.* This zone will be in effect from 7 p.m. to 7 a.m. daily from July 1, 2010 through September 30, 2010. A daily opening will be provided at 1 a.m. if a two hour advanced notice is provided to the contractor by contacting the bridge at telephone number (252) 796-7261 or VHF Marine Band Radio channel 13.

Dated: May 21, 2010.

**A. Popiel,**

*Captain, U.S. Coast Guard, Captain of the Port North Carolina.*

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**BILLING CODE 9110-04-P**

### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0294]

RIN 1625-AA00

#### Safety Zone; Shore Thing & Independence Day Fireworks, Chesapeake Bay, Norfolk, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Chesapeake Bay in the vicinity of Ocean View Beach Park, Norfolk, VA in support of the Shore Thing & Independence Day Fireworks event. This action is intended to restrict vessel traffic movement on the Chesapeake Bay