

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 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, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded that 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 this is a safety zone. A final "Environmental Analysis Check List" and a final "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; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 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 new temporary § 165.T07-092 is added to read as follows:

#### § 165.T07-092 Safety Zone, Sisters Creek, Jacksonville, FL.

(a) *Regulated area.* The Coast Guard is establishing a temporary safety zone around a firework launch site at Sisters Creek Marina, Jacksonville, Florida located at 30°23.87' N, 081°27.46' W. The regulated area includes all waters within 500 yards in any direction from the fireworks launch site located at Sisters Creek Marina.

(b) *Definitions.* The following definitions apply to this section:

*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP), Jacksonville, Florida, in the enforcement of the regulated navigation areas and security zones.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in the Regulated Area is prohibited unless authorized by the Coast Guard Captain of the Port Jacksonville, FL or his designated representative.

(d) *Dates.* This rule is effective from 9 p.m. on July 23, 2005, until 10 p.m. on July 23, 2005.

Dated: July 13, 2005.

**David L. Lersch,**

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

[FR Doc. 05-14589 Filed 7-22-05; 8:45 am]

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### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD13-05-028]

RIN 1625-AA00

#### Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project

AGENCY: Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone during preconstruction for the Tacoma Narrows Bridge construction project. The Coast Guard is taking this action to safeguard the public from hazards associated with the transport and construction of the cable wires and cable bands being used to construct the catwalk for the new bridge. Entry into this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

**DATES:** This rule is effective daily 5 a.m. to 9 p.m., Pacific Daylight Time, from July 19 to July 30, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD13-05-028 and are available for inspection or copying at the Waterways Management Division, Coast Guard Sector Seattle, 1519 Alaskan Way South, Seattle, WA, 98134, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Jessica Hagen, Waterways Management Division, Coast Guard Sector Seattle, at (206) 217-6958.

#### SUPPLEMENTARY INFORMATION:

#### Background and Purpose

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) has not been published for this regulation and good cause exists for making it effective without publication of an NPRM in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and persons that transit in the vicinity of the Tacoma Narrows Bridge. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event.

#### Discussion of Rule

The Coast Guard is adopting a temporary safety zone regulation on the waters of Tacoma Narrows, Washington, for the Tacoma Narrows Bridge construction project. The Coast Guard has determined it is necessary to limit access to 250 yards on either side of a line from the approximate position of 47°16'23" N, 122°33'25" W, the Gig Harbor shoreline in the vicinity of Point Evans, to 47°16'15" N, 122°33'15" W in order to safeguard people and property from hazards associated with this project. These safety hazards include, but are not limited to, hazards to navigation, collisions with the cables,

and collisions with work vessels and barges. The Coast Guard, through this action, intends to promote the safety of personnel, vessels, and facilities in the area. Entry into these zones will be prohibited unless authorized by the Captain of the Port or his representative. These safety zones will be enforced by Coast Guard personnel. The Captain of the Port may be assisted by other Federal, State, or local agencies.

### Regulatory Evaluation

This temporary rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DHS is unnecessary. This expectation is based on the fact that the regulated area established by this regulation would encompass a small area that should not impact commercial or recreational traffic. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

### 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.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit this portion of Tacoma Narrows during the time this regulation is in effect. The zone will not have a significant economic impact on a substantial number of small entities due to its short duration and small area. Because the impacts of this rule are expected to be so minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601–612) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would 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).

### Collection of Information

This temporary rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### Federalism

We have analyzed this temporary rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

### 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 State, local, or tribal government, in the aggregate, or the private sector of \$100,000,000 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 temporary rule would not effect 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 temporary 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 concern 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs 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 M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that 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.

## 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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 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. From 5 a.m. to 9 p.m. from July 19 to July 30, 2005, a temporary § 165.T13–010 is added to read as follows:

### § 165.T13–010 Safety Zone: New Tacoma Narrows Bridge Construction Project.

(a) *Location.* The following is a safety zone: All waters of the Tacoma Narrows, Washington State, within 250 yards on either side of a line with the points of 47°16'23" N, 122°33'25" W, the Gig Harbor Shore, to 47°16'15" N, 122°33'15" W. [Datum: NAD 1983]

(b) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, no person or vessel may enter or remain in the zone except for those persons involved in the construction of the new Tacoma Narrows Bridge, supporting personnel, or other vessels authorized by the Captain of the Port or his designated representatives. Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or his designated representative.

(c) *Applicable dates.* This section applies from 5 a.m. until 9 p.m., Pacific Daylight Time, from July 19 to July 30, 2005.

Dated: July 14, 2005.

**Stephen P. Metruck,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01–05–072]

RIN 1625–AA00

### Safety and Security Zones: Liquefied Hazardous Gas Vessel, Liquefied Hazardous Gas Facility and Designated Vessel Transits, New York Marine Inspection Zone and Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily suspending a portion of the regulation relating to security zones around Designated Vessels within the Captain of the Port New York Zone, and adding a temporary section to allow the Captain of the Port to protect Mass Transit Ferries and other vessels that are certificated to carry 150 or more passengers as Designated Vessels. This action is necessary to safeguard these vessels from sabotage, subversive acts, or other threats. This rule prohibits entry into or movement within these security zones without permission from the Captain of the Port of New York.

**DATES:** This rule is effective from July 8, 2005 until January 8, 2006.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection and copying at Coast Guard Sector New York, 212 Coast Guard Drive, room 301, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Commander Brian Willis, Waterways Management Division, Coast Guard Sector New York, at (718) 354–4220.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation, and good cause exists for making it effective less than 30 days after **Federal Register** publication. Due to the potential threats of terrorist attacks against public mass transit systems and other means of

conveyance, as illustrated by the attacks in London, UK on July 7, 2005, this rulemaking is urgently necessary to protect mass transit vessels and other vessels certificated to carry 150 passengers or more, regional infrastructure, and the public from waterborne attack and subversive activity. Any delay in the establishment and enforcement of this regulation's effective date would be clearly contrary to public interest since immediate action is needed to protect the public and the United States' interests against similar acts of terrorism.

#### Background and Purpose

On July 7, 2005 the mass transit system in London, UK was devastated by simultaneous explosive attacks resulting in numerous fatalities and injuries. These attacks illustrate the potential vulnerability of mass transit systems and other means of passenger conveyance within the United States, including those maritime transit systems such as Mass Transit Ferries and other vessels certificated to carry 150 passengers or more. These acts were unforeseen and accomplished without warning. These security zones are needed to protect and safeguard the public, vessels, and vessel crews from consequences of attacks of similar nature.

#### Discussion of Rule

The Coast Guard is temporarily suspending the regulations contained in 33 CFR 165.160 relating to Designated Vessels found in paragraphs (a)(2) and (b), replacing them with a temporary regulation containing a revised definition of "Designated Vessel." The temporary section will decrease the number of passengers a vessel must be certificated to carry to qualify for Designated Vessel status from 500 to 150 and increases the types of vessels that the Captain of the Port (COTP) may effectuate in the security zone. This will allow the COTP to establish a security zone on all waters within 100 yards of any Mass Transit Ferry or any other passenger vessel certificated to carry 150 or more passengers that operates within the New York Captain of the Port Zone. Requirements from paragraph 165.160(c) will still apply to the temporary rule. All other requirements and stipulations contained in paragraphs (a)(1) and (c) of 33 CFR 165.160 will remain unchanged and in full effect.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory