

(2) *Penalties not imposed on trustees and middlemen of certain WHMTs for failure to report OID.* Penalties will not be imposed as a result of a failure to provide OID information for a WHMT that has a start-up date on or after August 13, 1998 and on or before January 24, 2006, if the trustee of the WHMT does not have the historic information necessary to provide this information and the trustee demonstrates that it has attempted in good faith, but without success, to obtain this information. For purposes of calculating a market discount fraction under paragraph (g)(1)(v) of this section, for a WHMT described in this paragraph, it may be assumed that the WHMT is holding mortgages that were issued without OID. A trustee availing itself of this paragraph must include a statement to that effect when providing information to requesting persons under paragraph (c) of these regulations.

\* \* \* \* \*

#### § 1.671–5T [Removed]

■ **Par. 3.** Section 1.671–5T is removed.

**Kevin M. Brown,**

*Deputy Commissioner for Services and Enforcement.*

**Eric Solomon,**

*Assistant Secretary (Tax Policy).*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05–07–123]

RIN 1625–AA00

#### Safety Zone: Transit of Industrial Cranes, Cape Fear River, Wilmington, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone from the mouth of the Cape Fear River to the Cape Fear Memorial Bridge to provide for the safety of the public during the transit and mooring of a vessel carrying four (4) large industrial cranes. The cranes are of such size and dimension that they will create a significant obstruction to safe navigation for other vessels operating in the vicinity. Restricting vessel traffic is necessary to ensure the safety of the public. Vessel

traffic will only be restricted during the transit of the vessel.

**DATES:** This rule is effective from 1 a.m. on February 1, 2007 until 11 p.m. on February 15, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05–06–123 and are available for inspection or copying at the Coast Guard Marine Safety Unit Wilmington, North Carolina between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Tim Grant, Chief of Response, Coast Guard Marine Safety Unit Wilmington, North Carolina at (910) 772–2191.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

Pursuant to 5 U.S.C. 553(b)(B), a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM. Any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public interest since immediate action is needed to prevent traffic from transiting the waters of the Cape Fear River. A safety zone is needed in order to provide for the safety of life and property on navigable waters of the Cape Fear River. The regulated area will consist of the complete closure of the Cape Fear River to vessel traffic movement beginning at the International Regulations for Prevention of Collisions at Sea, 1972 (COLREGS, 72) Demarcation Line drawn from Oak Island Light House to Bald Head Island Abandon Light House noted on NOAA chart 11537 and proceeding north up the Cape Fear River bank to bank to the Cape Fear Memorial Bridge. The safety zone will be enforced until the vessel transporting the cranes has been safely moored at North Carolina State Port Authority berth #8.

##### Background and Purpose

Sometime between February 1, 2007 and February 15, 2007, The North Carolina State Port Authority (NCSPA) intends to bring in four (4) new cranes to enhance container operations at the NCSPA's facility located on the Cape Fear River, Wilmington, North Carolina. The combination of the size of the cranes and the restricted maneuverability in the Cape Fear River necessitates the temporary restriction of all commercial vessel movement in the Cape Fear River to protect mariners from the hazards associated with this event. This temporary safety zone will be enforced for approximately five (5) to

seven (7) hours on a day between February 1 and February 15 when the transit of the vessel carrying four large industrial cranes occurs. The zone will only be enforced on the day during the transit. The zone will not be enforced on subsequent days during the duration of the effective period. The zone will have minimal impact on vessel transits because the waterway will only be closed for five to seven hours.

##### Discussion of Rule

The Coast Guard is establishing a safety zone on the specified waters of the Cape Fear River. The regulated area will consist of the complete closure of the Cape Fear River to vessel traffic movement beginning at the International Regulations for Prevention of Collisions at Sea, 1972 (COLREGS, 72) Demarcation Line drawn from Oak Island Light House to Bald Head Island Abandon Light House noted on NOAA chart 11537 and proceeding north up the Cape Fear River bank to bank to the Cape Fear Memorial Bridge. The safety zone will be in effect from 1 a.m. on February 1, 2007 to 11 p.m. on February 15, 2007. The zone will be enforced for approximately five (5) to seven (7) hours on a day between February 1 and February 15 when the transit of the vessel carrying four large industrial cranes occurs. After February 15, 2007 the zone will no longer be in effect. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

##### Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this regulation restricts access to the regulated area, the effect of this rule will not be significant because: (i) The COTP may authorize access to the safety zone; (ii) the safety zone will be in effect for a limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

### 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 and operators of vessels intending to transit or anchor in that portion of the Cape Fear River between the dates of February 1, 2007 and February 15, 2007. The safety zone will not have a significant impact on a substantial number of small entities, because the zone will only be in place for approximately five (5) to seven (7) hours and maritime advisories will be issued, so the mariners can adjust their plans accordingly.

### 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 LT Tim Grant, Chief of Response, Coast Guard Marine Safety Unit Wilmington, North Carolina at (910) 772–2191. 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 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 U.S. Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

### 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 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 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 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 might 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 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 will 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. A final “Environmental Analysis Check List” and a final “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, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 subpart C 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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.; Department of Homeland Security Delegation No. 0170; 46 U.S.C. Chapter 701; Pub. L. 107–295, 116 Stat. 2064.

■ 2. Add Temporary § 165.T05–123, to read as follows:

**§ 165.T05–123 Safety Zone: Cape Fear River, Wilmington, North Carolina.**

(a) *Location:* The following area is a safety zone: All waters of the Cape Fear River from COLREGS Demarcation Line drawn from Oak Island Light House to Bald Head Island Abandon Light House noted on NOAA chart 11537 and proceeding north up the Cape Fear River bank to bank to the Cape Fear Memorial Bridge, in the Captain of the Port Cape Fear River, Wilmington North Carolina zone as defined in 33 CFR § 3.25–20.

(b) *Definition:* As used in this section; Captain of the Port: means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Cape Fear River, Wilmington, North Carolina to act on his behalf.

(c) *Regulation:* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Cape Fear River, Wilmington, North Carolina, or designated representative.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Cape Fear River Wilmington, North Carolina can be contacted at telephone number (910) 772–2191/94 or (910) 512–5830/31.

(4) Coast Guard vessels enforcing the safety zone can be contacted on VHF–FM marine band radio, channel 13 (156.65 MHz) and channel 16 (156.8 MHz).

(d) *Enforcement period:* The zone will be enforced for approximately five (5) to seven (7) hours on a day between February 1 and February 15 when the transit of the vessel carrying four large industrial cranes occurs. If the transit occurs as planned on a day during this period, then the zone will not be

enforced on subsequent days during the duration of the effective period.

(e) *Effective Date:* This regulation is effective from 1 a.m. on February 1, 2007 until 11 p.m. on February 15, 2007.

Dated: December 18, 2006.

**Byron L. Black,**

*Commander, U.S. Coast Guard, Captain of the Port, Cape Fear River, Wilmington, North Carolina.*

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[CGD05–06–121]

RIN 1625–AA00

**Security Zone; Choptank River, Cambridge, MD**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone encompassing certain waters of the Choptank River. This action is necessary to ensure the safety of persons and property, and prevent terrorist acts or incidents during the U.S. House Republican Issues Conference, being held during January 24–26, 2007. This rule prohibits vessels and people from entering the security zone and requires vessels and persons in the security zone to depart the security zone, unless specifically exempt under the provisions in this rule or granted specific permission from the Coast Guard Captain of the Port Baltimore.

**DATES:** This rule is effective from 7 a.m. on January 24, 2007, through 7 a.m. on January 27, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05–06–121 and are available for inspection or copying at Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226–1791, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ronald Houck, Waterways Management Division, at Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, Maryland 21226–1791, telephone number (410) 576–2674.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard is establishing this security zone to support the United States Capitol Police Dignitary Protection Division, the lead federal agency coordinating security for the U.S. House Republican Issues Conference, in their efforts to coordinate security operations and establish a secure environment for this highly visible and publicized event. This temporary security zone of short duration is necessary to provide for the security of a large gathering of high-ranking United States officials, their families and staff. Additionally, the publication of an NPRM is contrary to the public interest as our Nation continues its heightened security posture. Therefore, immediate action is required to address the ongoing threat to U.S. national interests.

For the same reasons, 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**. The measures contemplated by the rule are intended to protect the public by preventing waterborne acts of terrorism, which terrorists have demonstrated a capability to carry out. Immediate action is needed to defend against and deter these terrorist acts. Any delay in the effective date of this rule is contrary to public and national interests.

**Background and Purpose**

The ongoing hostilities in Afghanistan and Iraq have made it prudent for U.S. ports and waterways to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide. Due to increased awareness that future terrorist attacks are possible the Coast Guard, as lead federal agency for maritime homeland security, has determined that the Coast Guard Captain of the Port must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while still maintaining our freedoms and sustaining the flow of commerce. This security zone is part of a comprehensive port security regime designed to safeguard human life, vessels, and