

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

[Docket No. USCG–2009–0225]

RIN 1625–AA11

Regulated Navigation Areas: Herbert C. Bonner Bridge, Oregon Inlet, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area (RNA) on the waters of Oregon Inlet, North Carolina (NC). The RNA is needed to protect maritime infrastructure and the maritime public during fender repair work on the Herbert C. Bonner Bridge.

DATES: This rule is effective from 5 a.m. on April 16, 2009, through 8 p.m. on June 5, 2009.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2009–0225 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0225 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. 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. 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)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is needed to protect bridge repair workers and the maritime public from the hazards associated with this maintenance project. Fendering system repair workers will be on scaffolding in the navigation channel underneath the Herbert C. Bonner Bridge. Vessels transiting the channel could knock the workers off the scaffolding and into the water. Likewise, vessels could sustain damage by striking the scaffolding. It is imperative an RNA be established prior to fender repair work on the bridge which begins on April 16, 2009. Delaying fendering repair work on the bridge to complete an NPRM is impractical, unnecessary, and contrary to the public interest. For the safety concerns noted, it is in the public interest to have this regulation in place during the construction.

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, for the same reasons as noted above, would be contrary to public interest, since immediate action is needed to ensure the public’s safety.

Background and Purpose

The State of North Carolina Department of Transportation awarded a contract to Marine Technologies, Inc. of Baltimore, MD to perform repair work on the Herbert C. Bonner Bridge located in Oregon Inlet, NC. The contract is for the repair of the existing fender system that protects the bridge piers located on either side of the navigation channel from vessel allision. The fender repairs are scheduled to begin on April 16, 2009, and continue through June 5, 2009. The contractor will utilize scaffolding hanging from the fender system to perform the repair work. During periods of work, the scaffolding will reduce the available horizontal clearance of the main navigational channel to 124’. Because of this construction, vessels over a certain size will be limited in their ability to transit the regulated area as described below.

Discussion of Rule

The RNA will encompass the area of the main navigational channel directly under the Herbert C. Bonner Bridge. All vessels of 100 gross tons and greater are not permitted to transit the waterway unless the vessel asks the District

Commander or his representative for permission to transit. To seek permission to transit the area, mariners can contact Sector North Carolina at telephone number 252–247–4570.

Any vessel transiting the regulated area must do so at a no-wake speed during the effective period. Nothing in this proposed rule negates the requirement to operate at a safe speed as provided in the Navigational Rules and Regulations.

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 regulated area, the effect of this rule will not be significant because: (i) The regulated navigation area will be in effect for a limited duration of time, (ii) the Coast Guard will give advance notification via maritime advisories so mariners can adjust their plans accordingly, and (iii) vessels of 100 gross tons or greater may be granted permission to transit the area by the District Commander or his representative.

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. Although the regulated area will apply to the waters of the Oregon Inlet, the area will not have significant impact on small entities because the area will only be in place for a limited duration of time and maritime advisories will be issued in advance to allow the public to adjust

their plans accordingly. In addition, vessels of 100 gross tons or greater may be granted permission to transit the area by the District Commander or his representative.

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 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 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 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 0023.1 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 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 establishing a RNA. 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

■ 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 temporary § 165.T05–0225 to read as follows:

§ 165.T05–0225 Regulated Navigation Area; Herbert C. Bonner Bridge, Oregon Inlet, NC.

(a) *Definitions.* For the purposes of this section, *District Commander* means the Commander, Fifth Coast Guard District. *Representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Commander, Fifth U.S. Coast Guard District, to act as a representative on his behalf.

(b) *Location.* The following area is a regulated navigation area: All waters of Oregon Inlet, between the fendered spans of the Herbert C. Bonner Bridge.

(c) *Regulations.* (1) The general regulations governing regulated

navigation areas found in § 165.13 of this part apply to the regulated navigation area described in paragraph (b).

(2) All vessels of 100 gross tons and greater are not permitted to transit the regulated area without permission from the District Commander or his representative. To seek permission to transit the area, mariners can contact Sector North Carolina at telephone number (252) 247-4570.

(3) Any vessel transiting the regulated area must do so at a no-wake speed during the effective period. The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF-FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the District Commander or his representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(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 section will be enforced from 5 a.m. on April 16, 2009, through 8 p.m. on June 5, 2009.

Dated: April 6, 2009.

F.M. Rosa, Jr.,

Rear Admiral, U.S. Coast Guard, Commander,
Fifth Coast Guard District.

[FR Doc. E9-8610 Filed 4-14-09; 8:45 am]

BILLING CODE 4910-15-P

POSTAL SERVICE

39 CFR Part 111

New Standards for Letter-Sized Booklets

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service adopts new *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) to reflect changes to the construction and sealing of letter-sized booklets mailed at automation, presorted machinable or carrier route letter prices. We also adopt a definition of booklets and clarify weight standards for letter-sized mail.

DATES: *Effective Date:* September 8, 2009.

FOR FURTHER INFORMATION CONTACT: Krista Finazzo, 202-268-7304; Bill

Chatfield, 202-268-7278; or Susan Thomas, 202-268-7268.

SUPPLEMENTARY INFORMATION: On December 29, 2008, a proposed rule was published in the *Federal Register* (73 FR 79430-79435), that provided information on changes to tab placement and construction of folded self-mailers and booklets. The proposed rule followed two years of collaborative work with mailers to analyze and test a wide variety of letter-size booklets and other letter-size mailpiece designs. In response to the proposed rule, the Postal Service received more than 900 comments.

On February 3, 2009, a revision to our original proposal was announced in the *DMM Advisory* and *PCC Insider* indicating that the design and tab placement changes for folded self-mailers would become optional recommendations instead of requirements. Current standards for folded self-mailers will remain in effect and we will continue to work with the mailing community to test various folded self-mailer designs. Mailers' Technical Advisory Committee (MTAC) member associations that have an interest in folded self-mailers will coordinate the opportunity to participate in our research. We will publish recommendations regarding folded self-mailers in September 2009. An additional proposed rule for folded self-mailers will be published upon completion of the test of mailer-supplied sample pieces.

Changes for Booklets

General

This final rule includes the new required DMM standards for design, preparation, and sealing of machinable and automation letter-size booklets. We also describe in this final rule, recommended upgrades to the new requirements. We base these recommendations on observations of a wide variety of booklets tested and observed over the past several years. Following these recommendations will minimize mailpiece damage and maximize the efficient processing of booklets.

Definition

Booklets consist of bound sheets or pages. Binding methods that are compatible with machinable processing include perfect binding, permanent fastening with at least two staples in the manufacturing fold (saddle stitched), pressed glue, or another binding method that creates a nearly uniformly thick mailpiece. Spiral bindings are not machinable so booklets prepared with

spiral bindings do not qualify for automation prices. Large booklets may be folded to letter-size for mailing if the final mailpiece remains uniform in thickness.

Physical Characteristics

The maximum height for all machinable and automation booklets is six inches and the maximum length can vary between 9 and 10½ inches, depending on the booklet design. The minimum thickness for booklets is 0.009 inch and the maximum thickness is 0.25 inch regardless of size. Thickness is measured at the spine of the mailpiece.

The current maximum weight of 3 ounces has not changed and is applicable to all mailpieces prepared without envelopes. However, to improve machinability we recommend reducing the length of 3-ounce booklets to a final trim size of 9 inches.

Cover stock requirements vary with 40-pound minimum basis weight for folded booklet designs and 60- or 70-pound minimum basis weight for pieces longer than 9 inches. Lighter-weight paper tends to be easily damaged in processing equipment. The use of paper that is 10 pounds heavier than the required minimum basis weight is recommended for better processing performance. We strongly recommend using a minimum of 70-pound paper as cover stock on mailpiece designs that approach maximum booklet dimensions. References to paper weights are for book-grade paper unless otherwise specified. A paper grade conversion table is included in DMM Exhibit 201.3.2 for reference.

The bottom edge of booklets must be a bound edge or fold unless the mailpiece is prepared as an oblong booklet. Oblong booklets must be prepared with a spine on the leading edge. Booklets with a spine on the trailing edge are nonmachinable.

Tabs used to seal booklets must not have perforations. Generally, booklets need three 1½-inch tabs as closures. For larger or heavier booklets, we recommend 2-inch paper tabs. Glue spots or a continuous glue line may be used to seal some booklet designs.

Booklets that do not comply with the new standards will not be eligible for machinable or automation letter prices. Nonmachinable booklets will be assessed a surcharge (for First-Class Mail®), pay nonmachinable prices (for Standard Mail®), or pay nonbarcoded prices (for Periodicals).

Overview of Comments

We received more than 900 customer comments in response to the proposed standards. Of these, 79 noted concerns