

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 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 establishes a 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 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.T09-0512 to read as follows:

§ 165.T09-0512 Safety Zone; Marquette 4th of July Fireworks, Marquette Harbor, Lake Superior, Marquette, MI.

(a) *Location.* The following area is a temporary safety zone: All waters of Marquette Harbor within a 1,000-foot radius of the fireworks launch site, centered approximately 1,250 feet south

of the Mattson Park Bulkhead Dock and 450 feet east of Ripley Rock, at position 46°32'21.7" N, 087°23'07.60" W. [DATUM: NAD 83].

(b) *Enforcement Period.* This regulation will be enforced on July 4, 2010, from 9 p.m. until 11 p.m., with a rain date of July 5, 2010, from 9 p.m. until 11 p.m.

(1) The Captain of the Port, Sector Sault Sainte Marie may suspend at any time the enforcement of the safety zone established under this section.

(2) The Captain of the Port, Sector Sault Sainte Marie, will notify the public of the commencement and suspension of enforcement of the safety zone established by this section via any means that will provide as much notice as possible to the public. These means might include some or all of those listed in 33 CFR 165.7(a). The primary method of notification, however, will be through Broadcast Notice to Mariners and local Notice to Mariners.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within an enforced safety zone established by this section is prohibited unless authorized by the Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative.

(3) The "on-scene representative" of the Captain of the Port, Sector Sault Sainte Marie, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Sault Sainte Marie, to act on his behalf. The on-scene representative of the Captain of the Port, Sector Sault Sainte Marie, will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within an enforced safety zone shall contact the Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative to obtain permission to do so. The Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative may be contacted via VHF Channel 16.

Dated: June 9, 2010.

M.J. Huebschman,

Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.

[FR Doc. 2010-15007 Filed 6-21-10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR PART 165

[Docket No. USCG-2010-0506]

RIN 1625-AA00

Safety Zones; 2010 Muskegon Summer Celebration Air Show, Muskegon Lake, Muskegon, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary safety zones on Muskegon Lake near Muskegon, Michigan. These zones are intended to restrict vessels from two portions of Muskegon Lake due to the 2010 Muskegon Summer Celebration Air Show. These temporary safety zones are necessary to protect the surrounding public and vessels from the hazards associated with an air show.

DATES: This rule is effective from 11 a.m. on June 25, 2010 until 5 p.m. on June 27, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0506 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0506 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 email BM1 Adam Kraft, U.S. Coast Guard, Sector Lake Michigan, telephone (414) 747-7154, e-mail 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

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 because it is contrary to the public interest to delay the effective date of this rule. Delaying the effective date by first publishing an NPRM would be contrary to the safety zone’s intended objective since immediate action is needed to protect person’s and vessels against the hazards associated with air shows. Additionally, the zone should have negligible impact on vessel transits due to the fact that vessels will be limited from the area for only six hours each day the zones are in effect and vessels can still transit in the majority of Muskegon Lake during the event. Accordingly, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM.

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 this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Basis and Purpose

The temporary safety zones established by this rule are necessary to protect vessels and spectators from the hazards associated with the 2010 Muskegon Summer Celebration Air Show. The Captain of the Port, Sector Lake Michigan, has determined that the Muskegon Summer Celebration Air Show presents a significant risk to public safety and property. The likely combination of congested waterways and an air show presents a significant risk of serious injuries or fatalities.

Discussion of Rule

The first safety zone will encompass all waters of Muskegon Lake, in the vicinity of Muskegon, Michigan within a 12,000-foot by 3,000-foot rectangle. The rectangle will be bounded by the points beginning at 43°13′55″ N, 086°17′07″ W; then northeast to 43°14′51″ N, 086°15′07″ W; then northwest to 43°15′14″ N, 086°15′36″ W; then southwest to 43°13′55″ N, 086°17′33″ W; then back to the point of origin. [DATUM: NAD 83]. The second safety zone will encompass all waters of Muskegon Lake located within a 4,000-foot by 1,000-foot rectangle. The rectangle will be bounded by the points beginning at 43°13′53″ N, 086°16′08″ W; then northeast to 43°14′19″ N,

086°15′29″ W; then northwest to 43°14′29″ N, 086°15′40″ W; then southwest to 43°14′03″ N, 086°16′20″ W; then back to the point of origin. [DATUM: NAD 83]

All persons and vessels shall comply with the instructions of the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative. The Captain of the Port, Sector Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16.

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. We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zones will be relatively small and will exist for only a minimal time. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by proper authority.

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 might be small entities: The owners or operators of

vessels intending to transit or anchor in a portion of Muskegon Lake between 11 a.m. on June 25, 2010 and 5 p.m. on June 27, 2010.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be enforced for short period of time. Vessels may safely pass outside the safety zones during the event. In the event that the temporary safety zones affect shipping, commercial vessels may request permission from the Captain of the Port, Sector Lake Michigan, to transit through the safety zones. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

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 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 and is therefore categorically excluded under paragraph 34(g) of the Instruction.

A final environmental analysis check list and 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, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09-0506 to read as follows

§ 165.T09-0506 Safety Zones; 2010 Muskegon Summer Celebration Air Show, Muskegon Lake, Muskegon, MI

(a) *Locations.* (1) The first safety zone will encompass all waters of Muskegon Lake, the vicinity of Muskegon, Michigan within a 12,000-foot by 3,000-foot rectangle. The rectangle will be bounded by the points beginning at 43°13'55" N, 086°17'07" W; then northeast to 43°14'51" N, 086°15'07" W; then northwest to 43°15'14" N, 086°15'36" W; then southwest to 43°13'55" N, 086°17'33" W; then back to the point of origin. [DATUM: NAD 83].

(2) The second safety zone will encompass all waters of Muskegon Lake located within a 4,000-foot by 1,000-foot rectangle. The rectangle will be bounded by the points beginning at 43°13'53" N, 086°16'08" W; then northeast to 43°14'19" N, 086°15'29" W; then northwest to 43°14'29" N, 086°15'40" W; then south west to 43°14'03" N, 086°16'20" W; then back to the point of origin. [DATUM: NAD 83]

(b) *Effective period.* This regulation is effective from 11 a.m. on June 25, 2010 to 5 p.m. on June 27, 2010. This regulation will be enforced from 11 a.m. to 5 p.m. daily from June 25, 2010 to June 27, 2010. The Captain of the Port, Sector Lake Michigan, or his or her on-scene representative may terminate enforcement of the safety zones at any time.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within these safety zones is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative.

(2) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative.

(3) The "on-scene representative" of the Captain of the Port, Sector Lake Michigan, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Lake Michigan, to act on his or her behalf. The on-scene representative of the Captain of the Port, Sector Lake Michigan, will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within these safety zones shall contact the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative to obtain permission to do so. The Captain of the

Port, Sector Lake Michigan, or his or her on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the Captain of the Port, Sector Lake Michigan, or his or her on-scene representative.

Dated: June 7, 2010.

L. Barndt,

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

[FR Doc. 2010-15008 Filed 6-21-10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2010-0519]

RIN 1625-AA00

Safety Zone; Ship Repair in Penobscot Bay, ME

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Stena Drilling and Cianbro companies will replace three bow thrusters on the vessel STENA FORTH, a 748-foot drill ship, while at anchor in Penobscot Bay, Maine. The nature of the repairs require water depths of at least 120 feet in a sheltered environment, precluding the use of anchorages and limiting alternative locations along the East Coast where the repairs could be made. This temporary safety zone is necessary to ensure the safety of the ship's crew and the maritime public by prohibiting all unauthorized vessels and waterway users from entering within a 100 yard radius around the STENA FORTH while it is at anchor for repairs.

DATES: This rule is effective in the CFR on June 22, 2010 until 11:59 p.m. on July 5, 2010. This rule is effective with actual notice for purposes of enforcement from 12:01 a.m. on June 15, 2010 until 11:59 p.m. on July 5, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0519 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0519 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 Lieutenant Junior Grade Laura van der Pol, Waterways Management Division at Coast Guard Sector Northern New England, telephone 207-741-5421, e-mail Laura.K.vanderPol1@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 because publishing an NPRM is impractical and contrary to public interest. The Coast Guard was only recently made aware of the details of this repair, including the proposed anchorage location and anticipated ship arrival date, which were finalized just two weeks in advance. Thus, the Coast Guard did not have sufficient time to issue an NPRM and hold a comment period for this rulemaking. The expeditious implementation of this rule is in the public interest because it will help to ensure the safety of those involved in replacing three of the ship's thrusters. Additionally, the safety zone will define the area impacted by the repair operations for other waterway users who wish to operate in all other areas of the bay. Finally, delaying the effective date by first publishing a NPRM and holding a comment period would be contrary to the rule's objectives of ensuring safety of life on the navigable waters while these repairs are taking place, as immediate action is needed to protect persons and vessels from the hazards associated with repair operations conducted on an anchored vessel.

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. In addition to the reasons stated above, any delay in the effective date of this regulation would be contrary to the public interest as immediate action is necessary to protect the maritime community from the hazards associated with the repair operation. A delay or cancellation of the ship's repairs to accommodate a 30-day waiting period would be contrary to public interest as it would put lives of maritime community members at risk.

Basis and Purpose

Ship repairs are usually performed in a drydock, pier-side, or in an established general anchorage, barring the need for public notice or regulation as ships are typically well-removed from high-density traffic areas. For this project however, the technical parameters for replacing three bow thrusters on the 748-foot drill ship STENA FORTH necessitate water depths in excess of 120 feet, depths which are not available pier-side or in established anchorages along the East Coast. This regulation will establish a temporary safety zone in a 100-yard radius around the STENA FORTH while it is at anchor in Penobscot Bay to make repairs.

For the duration of the repairs, the following vessels will be in use within the safety zone surrounding the STENA FORTH: A crane barge, a barge to offload wastewater, two tug boats, one harbor skiff, and a safety dive-boat. Due to the location, heavy machinery involved, frequent dive operations, and nature of the work, the Coast Guard has determined that the ship repairs could pose a risk to waterway users and the repair crews if waterway use around the STENA FORTH is not restricted. Possible hazards include the risk of diver injury or death from near or actual contact with vessels traversing through the safety zone; the risk of injury to waterway users and repair crewmembers resulting from interference with the sensitive, heavy equipment operations; and damage or loss of fishing gear anchored within the safety zone. In order to protect the safety of all waterway users, including repair crews, this temporary rule establishes a safety zone for the duration of the repair work in the area immediately around the STENA FORTH as described in the *List of Subjects*.

This rule prevents vessels and persons from entering, transiting, mooring or anchoring within the area specifically designated as a safety zone during the period of enforcement unless authorized by the Captain of the Port, his designated representative, or on-scene patrol personnel. On-scene patrol