

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[Docket Number USCG–2016–0707]

**Drawbridge Operation Regulation; Upper Mississippi River, Rock Island, IL****AGENCY:** Coast Guard, DHS.**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the operating schedule that governs the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois. The deviation is necessary to facilitate a charity marathon race. This deviation allows the bridge to be maintained in the closed-to-navigation position for four and a half hours.

**DATES:** This deviation is effective from 7 a.m. to 11:30 a.m., September 25, 2016.

**ADDRESSES:** The docket for this deviation, (USCG–2016–0707) is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH”. Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314–269–2378, email [Eric.Washburn@uscg.mil](mailto:Eric.Washburn@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The U.S. Army Rock Island Arsenal requested a temporary deviation for the Rock Island Railroad and Highway Drawbridge, across the Upper Mississippi River, mile 482.9, at Rock Island, Illinois to remain in the closed-to-navigation position for four and a half hours from 7 a.m. to 11:30 a.m., September 25, 2016 to facilitate the Quad City Marathon.

The Rock Island Railroad and Highway Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that the drawbridge shall open on signal. There are no alternate routes for vessels transiting this section of the Upper Mississippi River. The bridge cannot open in case of emergency.

The Rock Island Railroad and Highway Drawbridge provides a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists

primarily of commercial tows and recreational watercraft. This temporary deviation has been coordinated with waterway users. No objections were received. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: August 19, 2016.

**Eric A. Washburn,***Bridge Administrator, Western Rivers.*

[FR Doc. 2016–20265 Filed 8–23–16; 8:45 am]

**BILLING CODE 9110–04–P****DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[Docket Number USCG–2016–0735]

**RIN 1625–AA00****Safety Zone; Nahant Bay, Marblehead, MA****AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of the Captain of the Port (COTP) Boston Zone within a 2,500-yard radius around a position approximately 6nm Northeast of Nahant Bay, MA, for a Department of Defense (DOD) Training Exercise. The safety zone is needed to protect Navy personnel, support vessels, and the maritime public from the hazards associated with this training exercise. Entering into, transiting through, mooring, or anchoring within this safety zone during periods of enforcement is prohibited unless authorized by the Coast Guard Sector Boston COTP or the COTP’s designated representative.

**DATES:** This rule is effective on August 24, 2016 from 7:00 p.m. through 10:00 p.m.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2016–0735 in the “SEARCH” box and click

“SEARCH.” Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email, Mark Cutter, Sector Boston Waterways Management Division, U.S. Coast Guard; telephone 617–223–4000, email [Mark.E.Cutter@uscg.mil](mailto:Mark.E.Cutter@uscg.mil).

**SUPPLEMENTARY INFORMATION:****I. Table of Abbreviations**

COTP Captain of the Port  
CFR Code of Federal Regulations  
DHS Department of Homeland Security  
DOD Department of Defense  
FR Federal Register  
NPRM Notice of Proposed Rulemaking  
NAD 83 North American Data of 1983  
§ Section  
U.S.C. United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary 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 NPRM with respect to this rule because publishing a NPRM would be impracticable. DOD Training Exercise will take place on August 24, 2016. The DOD Exercise will consist of High-altitude military parachuting freefall insertion approximately 6nm Northeast of Nahant, MA, in position 42° 27.000’ N., 070° 50.000’ W. This exercise will present safety hazards and risks to Navy personnel, support vessels, and the maritime public during the exercise. It would be impracticable to delay promulgating this rule, as it would not be possible to conduct notice and comment rulemaking before the date of the exercise. For this reason, the Coast Guard finds it impracticable to delay this regulation.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable for the same reasons specified above.

**III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The

COTP has determined that the potential hazards associated with this DOD Training Exercise create a serious safety concern for anyone transiting within a 2,500-yard radius of position 42° 27.000' N., 070° 50.000' W. This rule is needed to protect Navy personnel, vessels, and the normal marine traffic in the navigable waters within the safety zone while this exercise is being conducted.

#### IV. Discussion of Rule

This rule establishes a safety zone from 7:00 p.m. until 10:00 p.m. on August 24, 2016. The safety zone will cover all navigable waters within a 2,500-yard radius of position 42° 27.000' N., 070° 50.000' W. The duration of the zone is intended to protect Navy personnel, vessels, and normal marine traffic in these navigable waters during the DOD training exercise. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

#### V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and executive orders, and we discuss First Amendment rights of protestors.

##### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zone. The implementation of this temporary safety zone is necessary for the protection of all waterway users. The size of the zone is the minimum necessary to provide adequate protection for the waterway users, adjoining areas, and the public. Vessel traffic will be able to safely transit around this safety zone. Any hardships experienced by persons or vessels are considered minimal compared to the interest in protecting the public.

##### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule. 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). 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.

##### C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

##### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

##### E. 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.

##### F. 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 (42 U.S.C. 4321–4370f), and have determined that 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 involves a safety zone that will prohibit entry within 2,500 yards of position 42° 27.000' N., 070° 50.000' W. during the DOD training exercise. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

### G. Protest Activities

The Coast Guard respects the First Amendment Rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 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. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0735 to read as follows:

#### § 165.T01–0735 Safety Zone; DOD Training Exercise, Nahant Bay, Marblehead, MA.

(a) *Location.* The following area is a safety zone: All navigable waters within 2,500-yards of 42° 27.000' N., 070° 50.000' W. while the DOD Training Exercise is underway.

(b) *Regulations.* While this security zone is being enforced, the following regulations, along with those contained in § 165.33, apply:

(1) Under the general safety zone regulations in subpart B of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or a COTP designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF–FM channel 16 or by phone at (617) 223–5757 (Sector Boston Command Center). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or a COTP designated representative.

(c) *Enforcement period.* This section will be enforced from 7:00 p.m. until 10:00 p.m. on August 24, 2016.

(d) *Definitions.* As used in this section, *designated representative* means is any Coast Guard commissioned, warrant, or petty officer or any federal, state, or local law enforcement officer who has been designated by the COTP to act on the

COTP's behalf. The COTP's representative may be on a Coast vessel, a Coast Guard Auxiliary vessel, state or local law enforcement, or a location on shore.

(e) *Penalties.* Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: August 19, 2016.

**C. C. Gelzer,**

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

[FR Doc. 2016–20389 Filed 8–22–16; 4:15 pm]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 160328287–6745–02]

RIN 0648–BF94

#### Atlantic Highly Migratory Species (HMS); Porbeagle Shark Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule implements the International Commission for the Conservation of Atlantic Tunas (ICCAT) Recommendation 15–06 regarding porbeagle sharks (*Lamna nasus*) caught in association with ICCAT fisheries. Recommendation 15–06 requires, among other things, fishing vessels to promptly release unharmed, to the extent practicable, porbeagle sharks caught in association with ICCAT fisheries when brought alive alongside for taking on board the vessel. This action affects fishermen fishing in the commercial highly migratory species (HMS) pelagic longline fishery and the HMS recreational fisheries for tunas, swordfish, and billfish in the Atlantic Ocean, including the Caribbean Sea and Gulf of Mexico. This action implements an ICCAT recommendation, consistent with the Atlantic Tunas Convention Act (ATCA), and will further domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** Effective on September 23, 2016.

**FOR FURTHER INFORMATION CONTACT:** Larry Redd, Carrie Soltanoff, or Karyl Brewster-Geisz by phone at 301–427–8503.

## SUPPLEMENTARY INFORMATION:

### Background

Atlantic HMS are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP). Implementing regulations at 50 CFR part 635 are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, and Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 927 *et seq.* ATCA requires the Secretary of Commerce (Secretary) to promulgate regulations as may be necessary and appropriate to implement ICCAT recommendations.

At its 24th Annual Meeting in 2015, ICCAT adopted Recommendation 15–06 on “Porbeagle [Sharks] Caught in Association with ICCAT Fisheries.” Recommendation 15–06 requires, among other things, fishing vessels “. . . to promptly release unharmed, to the extent practicable, porbeagle sharks caught in association with ICCAT fisheries when brought alive alongside for taking on board the vessel.” Recommendation 15–06 notes that, according to the ICCAT Standing Committee for Research and Statistics (SCRS), biomass of northwest Atlantic and northeast Atlantic porbeagle sharks is depleted to well below the biomass at maximum sustainable yield, but recent fishing mortality is below the fishing mortality at maximum sustainable yield (*i.e.*, the stocks are overfished but overfishing is not occurring). Recommendation 15–06 further notes that the 2008 and 2012 Ecological Risk Assessments concluded that the porbeagle shark was among the most vulnerable of shark species, which, even at low fishing mortality levels, makes it more susceptible to overfishing. Thus, Recommendation 15–06 was adopted by ICCAT to reduce fishing mortality of porbeagle sharks caught in association with ICCAT fisheries in order to reduce porbeagle shark fishing even further, and thus assist in rebuilding stocks which are currently overfished. On June 15, 2016 (81 FR 39017), NMFS published a proposed rule to consider changes to the regulations at 50 CFR part 635 consistent with Recommendation 15–06. The proposed rule contains details that are not repeated here. The comment period on the proposed rule ended on July 15, 2016.

Domestically, porbeagle sharks are managed pursuant to a rebuilding plan established in Amendment 2 to the 2006 Consolidated HMS FMP (73 FR 35788, June 24, 2008 as corrected at 73 FR 40658, July 15, 2008). Under current regulations, commercial and