

equal access to the services, programs, and activities provided by a public entity.

Many commenters encouraged the Department to establish more explicit and specific requirements for training. Commenters provided a variety of suggestions for what these requirements should be, including certification; training by the manufacturers of accessible MDE; periodic “refresher” training; and training on additional topics, such as the maintenance of accessible MDE, appointment scheduling and booking accessible MDE, attitudinal barriers, implicit bias, ableism, disability culture, disability history, providing care to individuals with disabilities, transfer support and practice, the use of lifts, plain language, effective communication, and reasonable modifications. One commenter suggested that the Department should withhold Federal funding if certain training is not conducted. Many commenters stated that people with disabilities should be involved in training so that public entities are able to draw from individuals’ lived experiences.

In response to the Department’s request for comments on the costs of programs for ensuring qualified staff, a few commenters stated that the cost of training would be minimal, especially in comparison to the cost of an injury to individuals with disabilities or personnel. These commenters stated that proper training reduces the number of injuries to individuals with disabilities and staff, ultimately reducing costs for covered entities.

After considering all of these comments, the Department declines to impose more specific requirements in § 35.213. Training, including training on the topics commenters suggested, will often be the most effective way to for public entities to ensure compliance with the entity’s obligations under subpart I of this part. Training developed in consultation with, or provided by, individuals with disabilities may be particularly effective. And the Department appreciates commenters’ views that training may ultimately reduce costs. However, the Department believes it is important to provide public entities with flexibility to determine how they will comply with the qualified staff requirement. Appropriate methods for meeting this requirement may differ for small health care providers as opposed to large hospital systems, for example. The Department has therefore decided not to mandate one specific process or curriculum that all public entities must follow to comply with § 35.213.

Several commenters suggested steps the Department could take to assist covered entities in complying with this requirement and the other requirements set forth in subpart I of this part. Suggestions included providing additional guidance, technical assistance, training, and financial resources. Some commenters also suggested that the Department collaborate with manufacturers to provide instructions on how to use accessible MDE or encourage covered entities to request instructions during procurement. The Department notes that it has already provided some technical assistance.<sup>50</sup> If

public entities would find it helpful to seek additional information from MDE manufacturers or vendors, the Department encourages entities to do so. As noted in the discussion of § 35.211(c), the Department does not currently operate a grant program to assist public entities in complying with the ADA. The Department will, however, continue to consider what additional guidance, technical assistance, or training it can provide that will assist regulated entities in complying with their obligations under subpart I of this part.

#### Public Comments on Other Issues in Response to NPRM

The Department received comments on a variety of other issues in response to the NPRM. Several commenters recommended that the Department prescribe specific steps that all entities must take in order to carry out the primary requirements in subpart I of this part, such as employing scheduling and reservation systems; maintaining and publishing lists of accessible inventory, including the location of such equipment; reimbursing patients for transportation costs to accessible facilities; using certain staff-to-patient ratios; having staff take notes on each patient’s needs and the patient’s level of understanding; providing communication access in American Sign Language and Braille; using patient lifts or transfer teams; and offering scales and health monitoring tools for home use to patients with transportation difficulties. Another commenter suggested that entities subcontract with disability groups to test MDE that the entities have purchased. Some commenters also suggested that the Department issue guidance on various topics.

While the Department appreciates commenters’ thoughtful suggestions, the Department declines to prescribe that public entities must take these specific steps in order to carry out the requirements in subpart I of this part. The Department intends to instead give public entities and members of the public clarity about the requirements in subpart I of this part, while also giving public entities flexibility in determining how best to carry out those requirements based on their individual circumstances. Public entities may find that many of the approaches recommended in the comments summarized in the preceding paragraph will enable them to carry out the requirements in subpart I of this part. The Department will also consider providing additional guidance to public entities about how to comply with subpart I of this part.

Commenters also expressed concern that people with disabilities are not involved in decisions associated with their care, in general. One commenter suggested that all policies about people with disabilities should be formed in consultation with an advisory council of people with a range of disabilities. The Department agrees that it is important to involve people with disabilities in decisions involving the creation and implementation of disability-related rules and policies. Indeed,

the technical standards that the Department is adopting were created by the Access Board, a coordinating body that includes 13 members of the public, most of whom are required to have a disability in order to be appointed to the Access Board.<sup>51</sup> The Department has also carefully considered comments on the NPRM from many members of the public who self-identified as having a disability. In addition, individuals with disabilities can file a complaint with the Department or file a private lawsuit if a public entity fails to carry out its title II obligations. Given the existing mechanisms to solicit feedback and receive complaints about implementation from individuals with disabilities, the Department declines to create an advisory council in connection with this part.

The Department also received a comment suggesting that it regularly review and update accessibility standards to reflect technological advancements and the evolving needs of individuals with disabilities. Executive Order 13563 already requires the Department to review its regulations periodically to determine whether they should be modified, streamlined, expanded, or repealed.<sup>52</sup> Further, section 510 of the Rehabilitation Act requires the Access Board, in consultation with the Food and Drug Administration, to periodically review and, as appropriate, amend the MDE standards.<sup>53</sup> Therefore, a separate mechanism for reviewing the effectiveness of this part is not necessary.

Finally, the Department received a few comments asking that it make the MDE Standards enforceable against title III entities. As noted in section II.A of the preamble to the final rule (“Statutory and Rulemaking Overview”), the Department will continue to consider issues concerning MDE under title III. The Department will also continue to consider further rulemaking on this topic. However, title III entities are not the subjects of this rulemaking.

Dated: July 26, 2024.

**Merrick B. Garland,**  
*Attorney General.*

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**BILLING CODE 4410-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2024-0711]

RIN 1625-AA00

#### Safety Zone; M/V JACOB PIKE Dead Ship Tow, Harpswell, ME to South Portland, ME

**AGENCY:** Coast Guard, DHS.

<sup>51</sup> U.S. Access Board, *About the U.S. Access Board*, <https://www.access-board.gov/about/> [<https://perma.cc/L9N7-56YV>].

<sup>52</sup> E.O. 13563, sec. 6, 3 CFR, 2011 Comp., p. 215.

<sup>53</sup> 29 U.S.C. 794(f).

<sup>50</sup> See, e.g., U.S. Dep’t of Just., Civ. Rts. Div., *Access to Medical Care for Individuals with*

*Mobility Disabilities* (June 26, 2020), <https://www.ada.gov/resources/medical-care-mobility/> [<https://perma.cc/UH8Y-NZWL>].

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary moving safety zone on the navigable waters between Harpswell, ME and South Portland, ME. This safety zone will surround the M/V JACOB PIKE, once refloated, and dead ship towed from Harpswell, ME though Casco Bay to Turner Island Marine Rail located on the Fore River in South Portland, ME. The safety zone will extend 200-yards on all sides of the M/V JACOB PIKE during the dead ship tow transit. Vessels and people are prohibited from entering this safety zone.

**DATES:** This rule is effective without actual notice from August 9, 2024 through August 31, 2024. For the purposes of enforcement, actual notice will be used from August 6, 2024, until August 9, 2024.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2024–0711 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email MSTC Zachary Wetzel, Sector Northern New England, U.S. Coast Guard; telephone 207–808–9137, email [NNEWaterways@uscg.mil](mailto:NNEWaterways@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
 COTP Captain of the Port Sector Northern New England  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of Proposed Rulemaking  
 TFR Temporary Final Rule  
 M/V Motor Vessel

**II. Background Information and Regulatory History**

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 specifics details concerning the salvage operations

associated with the M/V JACOB PIKE and the subsequent transit to a facility were not received in time to publish an NPRM and seek comments before the subject transit. Publishing an NPRM and delaying the effective date of this rule to await public comments would be impracticable and contrary to the public interest since it would inhibit the Coast Guard’s ability to fulfill its statutory missions to protect the safety of the public, and vessels transiting the waters of the Casco Bay during the dead ship movement of the M/V JACOB PIKE.

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 of this rule would be impractical because immediate action is needed to minimize the potential safety hazards associated with the salvage and dead ship movement of the M/V JACOB PIKE.

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

Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Northern New England (COTP) has determined that potential hazards associated with the salvage recovery and dead ship movement of the M/V JACOB PIKE will be a safety concern for anyone within 200-yards radius of the M/V JACOB PIKE and any towing vessel supporting the operation. This rule is needed to protect personnel, vessels, and the marine environment during the salvage operation and during the dead ship movement of the M/V JACOB PIKE from its location in Harpswell, ME, along its route to Turner Island Marine Rail located in South Portland, ME.

**IV. Discussion of the Rule**

This rule establishes a temporary safety zone August 6, 2024, through August 31, 2024, however the zone will only be enforced while the M/V JACOB PIKE, an 83-foot wooden sardine carrier which sank early this year, is dead ship towed. The moving 200-yard safety zone will be established for the M/V JACOB PIKE and all towing vessels supporting its operations during transit from Harpswell, ME though Casco Bay to Turner Island Marine Rail located on the Fore River in South Portland, ME. Salvage operations are expected to begin August 6, 2024, and take three days. Once the M/V JACOB PIKE is raised the dead ship tow transit is anticipated to take eight hours. The salvage date and dead ship tow transit is tentative and subject to change due to weather or other unforeseen circumstances. The Coast Guard is proposing this rule remain effective through August 31,

2024, in case the salvage operation is delayed due to weather or other unforeseen circumstances. The COTP will issue a Broadcast Notice to Mariners via marine channel 16 (VHF–FM) of the exact date and times in advance of the enforcement period to the local maritime community. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the dead ship movement of M/V JACOB PIKE while transiting the Casco Bay area. 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. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration and time-of-day of the safety zone. The zone is limited in size, location, and duration as it will cover a portion of navigable waters off Harpswell, ME, Casco Bay, and the Fore River in South Portland, ME within a 200-yard radius of the vessel M/V JACOB PIKE and any towing vessels supporting the operation. The zone is limited in scope as vessel traffic may be able to safely transit around this safety zone and vessels may seek permission from the COTP to enter the zone. The zone is limited in duration in that it will be enforced for approximately three days surrounding salvage operations and another eight hours for the dead ship tow transit. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the safety zone.

**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 (Pub. L. 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 call or email 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.

#### 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 Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), 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 temporary safety zone that will move and prohibit entry within a 200-yard radius around the recovery of the M/V JACOB PIKE and its dead ship tow from Harpswell, ME to South Portland, ME. This zone is expected to last approximately eight-hours during the dead ship tow movement. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule. A Record of

Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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:** 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T01–0711 to read as follows:

#### § 165.T01–0711 Safety Zone; M/V JACOB PIKE Dead Ship Tow, Harpswell, ME to South Portland, ME.

(a) *Location.* The following area is a safety zone: The moving safety zone will include all navigable waters off Harpswell, ME, Casco Bay, and the Fore River in South Portland, ME, within a 200-yard radius of the vessel M/V JACOB PIKE and all towing vessels supporting its operations, while transiting to Turner Island Marine Rail located in South Portland, ME.

(b) *Definitions.* As used in this section, *Designated Representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Northern New England (COTP) in the enforcement of the safety zone.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF-FM radio channel 16 or phone at 833-449-2407. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section is effective from noon on Tuesday, August 6, 2024, through 11:59 p.m. on Saturday, August 31, 2024. The safety zone will be enforced while M/V JACOB PIKE and all towing vessels supporting its operations are transiting, until safely moored at Turner Island Marine Rail, South Portland, ME.

Dated: August 5, 2024.

**Matthew S. Baker,**

*Captain, U.S. Coast Guard, Captain of the Port Northern New England.*

[FR Doc. 2024-17914 Filed 8-8-24; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2024-0714]

RIN 1625-AA00

#### Safety Zone, Lake Erie, Cleveland, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for certain navigable waters of Lake Erie offshore of Edgewater Beach in Cleveland, Ohio. This action is necessary to provide for the safety of the swimming event participants on these waters during the Tri CLE Rock and Roll Run, to be held on August 17 and 18, 2024. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Eastern Great Lakes, or a designated representative.

**DATES:** This rule is effective from 10 a.m. on August 17, 2024, through 10:30 a.m. on August 18, 2024, with enforcement periods of 10 a.m. through 1:30 p.m. on August 17, 2024, and 4 a.m. through 10:30 a.m. on August 18, 2024.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2024-0714 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email Cody Mayrer at Marine Safety Unit Cleveland's Waterways Management Division, U.S. Coast Guard; telephone 216-937-0111, email [D09-SMB-MSUCLEVELAND-WWM@uscg.mil](mailto:D09-SMB-MSUCLEVELAND-WWM@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule under authority in 5 U.S.C. 553(b)(B). This statutory 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." The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because this annual event requires a temporary location change from the usual event site and prompt action is required to establish the safety zone in order to ensure the safety of swimming event participants.

Also, 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** because this annual event requires a temporary location change from the usual event site and prompt action is required to establish the safety zone in order to ensure the safety of swimming event participants.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port Sector Eastern Great Lakes (COTP) has determined that a safety zone is required to ensure the safety of participants and the navigable waters within the course of the swimming portion of the triathlon before, during, and after the scheduled marine event.

##### IV. Discussion of the Rule

The COTP is establishing a temporary safety zone from 10:00 a.m. on August 17, 2024, through 10:30 a.m. on August 18, 2024, with enforcement periods of 10 a.m. through 1:30 p.m. on August 17,

2024, and 4 a.m. through 10:30 a.m. on August 18, 2024.

The safety zone would cover all navigable waters and tributaries of Lake Erie offshore Edgewater Beach and immediately adjacent waters in Cleveland, OH. The boundaries of the safety zone form a rectangle with the four corners of the polygon located in the following positions: (1) 41°29'15.76" N, 081°44'46.34" W; (2) 41°29'27.96" N, 081°44'49.87" W; (3) 41°29'31.98" N, 081°44'24.01" W, (4) 41°29'27.46" N, 081°44'22.51" W. The duration of the zone is intended to ensure the safety of participants in these navigable waters before, during, and after the swim portion of the Tri CLE Rock Roll Run triathlon. No vessel or person would 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. This rule has not been designated a "significant regulatory action," under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, location, and duration of rule. This safety zone would restrict navigation for a relatively small area near Edgewater Beach for the swimming area for 3.5 hours on August 17, 2024, and 6.5 hours on August 18, 2024.

###### 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