

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.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.ID, that this rule is categorically excluded from further environmental documentation. This rule fits this categorical exclusion because it is a security and safety zone. A Categorical Exclusion Determination is available in the docket for inspection and copying 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; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 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. From April 20, 2004, until April 20, 2005, add § 165.T09-012 to read as follows:

§ 165.T09-012 Security and Safety Zone; M/V Spirit of Ontario, Lake Ontario and adjacent waters, New York.

(a) *Location.* (1) *Genesee River.* The following area is designated as a security and safety zone: all navigable waters 25 yards in all directions of the M/V Spirit of Ontario once the vessel is in the Genesee River upstream of line

drawn between the Rochester Harbor Light and the East Pier Light.

(2) *Lake Ontario.* The following area is designated as a security and safety zone: all U.S. navigable waters of Lake Ontario 100 yards in all directions of the M/V Spirit of Ontario once the vessel is lake-side (in Lake Ontario) of line drawn between the Rochester Harbor Light and the East Pier Light.

(b) *Definition.* As used in this section, *Captain of the Port* means the Captain of the Port Buffalo. The Captain of the Port may authorize or designate any Coast Guard commissioned officer, warrant, or petty officer to act on his behalf as his representative.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part:

(1) No person or vessel may enter or remain in this zone without the permission of the District Commander or Captain of the Port.

(2) All persons within this zone must obey any direction or order of the District Commander or the Captain of the Port, or the Captain of the Port's designated representative, which will be the on-scene patrol commander.

(3) Vessels constrained by their draft such that they are required to enter the security and safety zone should only operate at the minimum speed necessary to maintain a safe course and must proceed as directed by the on-scene patrol commander or the master of the M/V Spirit of Ontario.

(4) When the M/V Spirit of Ontario approaches within 25 yards of any vessel, on the Genesee River, that is moored or anchored, the stationary vessel must stay moored or anchored while it remains within the security and safety zone unless it is either ordered by, or given permission by the Captain of the Port Buffalo or the on-scene patrol commander to do otherwise.

Dated: April 20, 2004.

P.M. Gugg,

Captain, U.S. Coast Guard, Captain of the Port, Buffalo.

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BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01-04-035]

RIN 1625-AA00

Safety Zone; Metro North Railroad Bridge Over the Norwalk River, Norwalk, CT

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters surrounding the Metro North Railroad Bridge over the Norwalk River, Norwalk, Connecticut. This zone is necessary to protect vessels that wish to transit past the bridge due to an allision that occurred on April 11, 2004, destroying the fendering system under the bridge's western span, thereby exposing the bridge piers to the possibility of direct allision with an unprotected bridge structure. In addition, the damaged fendering system extends into the navigable channel, causing a hazard to navigation. Entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, Connecticut.

DATES: This rule is effective from 12 a.m. April 17, 2004 until 11:59 p.m. on June 15, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01-04-035 and will be available for inspection or copying at Group/MSO Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant A. Logman, Waterways Management Officer, Coast Guard Group/Marine Safety Office Long Island Sound at (203) 468-4429.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Any delay encountered in this regulation's effective date would be impracticable and contrary to public interest since immediate action is needed to restrict and control maritime traffic while transiting in the waters of

the Norwalk River under the Metro North Railroad Bridge, Norwalk, Connecticut. On April 11, 2004, the fendering under the western span of the bridge was completely destroyed by an allision with two stone barges. The bridge piers under the western span of the bridge are now exposed to the possibility of direct allision by traffic passing under the bridge. In addition, the damaged fendering system extends into the navigable channel and presents a hazard to navigation. The delay inherent in the NPRM process is contrary to the public interest and impracticable as immediate action is needed to prevent further allision with the bridge and prevent collision with the damaged fendering system that extends into the channel. A temporary safety zone was implemented (CGD01-04-050) effective from 11 a.m. on April 11, 2004 to 11:59 p.m. April 16, 2004. Due to the extensive damage on the bridge and the need for work to be approved by various State and Federal agencies prior to commencing, an extension of that temporary rulemaking is necessary.

Background and Purpose

On Sunday April 11, 2004 at approximately 2:40 a.m., two barges filled with stone being pushed by a barge hit the pilings of the fendering system on the western span of the Metro North Railroad Bridge over the Norwalk River, Norwalk, Connecticut. The allision by these barges completely destroyed the fendering system under the western span of the bridge. While the bridge has been determined to be safe for rail traffic, the lack of a fendering system, that is designed to protect bridge piers from direct allision, leaves the bridge piers exposed to the possibility of direct damage. Further damage to the bridge pier could impede rail traffic and the safety of the bridge and public utilizing the rail service. In addition, the fendering system that was damaged extends into the navigable channel and presents a hazard to navigation. The Coast Guard is establishing a safety zone in all waters of the Norwalk River in Norwalk, Connecticut within 100 yards of the Metro North Railroad Bridge. This safety zone is necessary to protect the safety of the bridge, bridge operations and public using the Metro North Railroad from further allision directly with the bridge piers. It is also necessary to prevent vessels from colliding with the damaged fendering system currently extending into the channel.

Discussion of Rule

This regulation establishes a temporary safety zone on the waters of the Norwalk River within 100 yards of the Metro North Railroad Bridge, Norwalk Connecticut. This action is intended to prohibit vessel traffic in a portion of Norwalk River to prevent further damage to the Metro North Railroad Bridge, which may be caused due to lack of a fendering system around bridge piers around the western span of the Bridge. The safety zone is in effect from 12 a.m. on April 17, 2004 until 11:59 p.m. on June 15, 2004. Marine traffic may transit safely outside of the safety zone during the effective dates of the safety zone, allowing navigation of the rest of the Norwalk River except for the portion delineated by this rule. However, recreational vessels may pass on the east side of the channel, and commercial vessels may request permission to transit the area from the Captain of the Port, Long Island Sound. Other entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

Any violation of the safety zone described herein is punishable by, among others, civil and criminal penalties, in rem liability against the offending vessel, and license sanctions.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule will be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: the safety zone is only for a temporary period, vessels may transit in all areas of the Norwalk River other than the area of the safety zone, recreational vessels may pass on the east side of the channel, and commercial vessels may request permission to transit the area from the Captain of the Port, Long Island Sound.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will 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 may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in those portions of the Norwalk River covered by the safety zone. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant A. Logman, Waterways Management Officer, Group/Marine Safety Office Long Island Sound, at (203) 468-4429.

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).

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 affect 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 will not concern 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 will 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.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting

comments on how to best carry out the Order. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action, therefore it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is 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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 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. From 12 a.m. April 17, 2004 to 11:59 p.m. on June 15, 2004 add temporary § 165.T01–035 to read as follows:

§ 165.T01–035 Safety Zone: Metro North Railroad Bridge over the Norwalk River, Norwalk CT.

(a) *Location.* The following area is a safety zone: All waters of the Norwalk River, Norwalk, Connecticut, within 100 yards of the Metro North Railroad Bridge.

(b) *Regulations.* (1) In accordance with the general regulations in 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port (COTP), Long Island Sound, except:

(i) Recreational vessels are authorized to pass under the bridge’s east span.

(ii) All commercial vessels may pass under the bridge’s east span upon the request and authorization by the Captain of the Port, Long Island Sound.

(2) All persons and vessels shall comply with the instructions of the COTP, or the designated on-scene U.S. Coast Guard representative. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels.

Dated: April 17, 2004.

Joseph J. Coccia,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 62

RIN 1660-AA29

National Flood Insurance Program (NFIP); Assistance to Private Sector Property Insurers; Extension of Term of Arrangement

AGENCY: Federal Emergency Management Agency (FEMA).
Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Interim final rule.

SUMMARY: FEMA is changing the current Financial Assistance/Subsidy Arrangement (the Arrangement) to extend its term of October 1, 2002, through May 1, 2004, to a term of October 1, 2002, through September 30, 2004. The Arrangement defines the duties and responsibilities of insurers that sell and service insurance under the Write Your Own (WYO) program. It also identifies the responsibilities of the Government to provide financial and technical assistance to these insurers.

DATES: Effective May 2, 2004. Comments on this interim final rule should be received on or before June 29, 2004.

ADDRESSES: Please send your comments to the Rules Docket Clerk, Office of the