

**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; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. Add a new temporary § 165.T07–195 to read as follows:

**§ 165.T07–195 Safety Zone; Caloosahatchee River, Florida.**

(a) *Location.* The Coast Guard is establishing a temporary safety zone on the waters of the Caloosahatchee River, Florida, in the vicinity of the Cape Coral Bridge, that includes all the waters from surface to bottom, within a 5 foot radius of the construction barge and accompanying tug that are working on the bridge fender system.

(b) *Definitions.* The following definitions apply to this section:

*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP) St. Petersburg, Florida, in the enforcement of regulated navigation areas and safety and security zones.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may anchor, moor or transit the safety zone without the prior permission of the Captain of the Port St. Petersburg, Florida, or his designated representative.

(d) *Date.* This rule is effective from 6 a.m. on September 18, 2006 through 6 p.m. on December 22, 2006 and will be enforced from 7 a.m. to 6 p.m. every Monday through Friday during the effective period.

Dated: September 15, 2006.

**J.A. Servidio,**

*Captain, U.S. Coast Guard, Captain of the Port St. Petersburg, Florida.*

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**BILLING CODE 4910–15–P**

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

[COTP St. Petersburg 06–219]

**RIN 1625-AA00**

**Safety Zone; Sanibel Island Bridge Span A, Ft. Myers Beach, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of San Carlos Bay, Florida in the vicinity of the Sanibel Island Bridge span “A” while bridge construction is conducted. This rule is necessary to ensure the safety of the construction workers and mariners on the navigable waters of the United States.

**DATES:** This rule is effective from 6 a.m. on October 16, 2006 through 9 p.m. on March 31, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP 06–219] and are available for inspection or copying at Coast Guard Sector St. Petersburg, Prevention Department, 155 Columbia Drive, Tampa Florida 33606–3598 between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Waterways Management Division at Coast Guard Sector St. Petersburg (813) 228–2191, Ext 8307.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The bridge contractor did not provide the information about the bridge construction with sufficient time to publish an NPRM. The Coast Guard did not receive the scope of work for the remaining construction until September 28, 2006 at a meeting held with the contractors. Publishing an NPRM would have been contrary to the public interest since immediate action is needed to minimize potential danger to the construction workers and mariners transiting the area. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after

publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners and local law enforcement vessels will be in the vicinity of this zone to advise mariners of the restriction.

**Background and Purpose**

Boh Brothers Construction will be performing construction work on the Sanibel Island Bridge between October 2006 and March 2007. This work will involve setting girders, setting the deck, setting overhangs, placing resteel, pouring the bridge deck, and wrecking the old bridge's deck on the Sanibel Island Bridge span “A”. These operations will require placing a barge in the navigational channel. The nature of this work and the close proximity of the channel present a hazard to mariners transiting the area. This safety zone is being established to ensure the safety of life on the navigable waters of the United States.

**Discussion of Rule**

The safety zone encompasses the following waters of San Carlos Bay, Florida: All waters from surface to bottom, within a 400 foot radius of the following coordinates: 26°28'59" N, 082°00'52" W. Vessels are prohibited from anchoring, mooring, or transiting within this zone, unless authorized by the Captain of the Port Sector St. Petersburg or his designated representative.

This rule is effective from 6 a.m. on October 16, 2006 through 9 p.m. on March 31, 2007. However, the safety zone will only be enforced from 6 a.m. until 9 p.m. daily on certain dates during that time while construction operations are occurring. The Coast Guard does not know the exact dates of the construction operations at this time, but Coast Guard Sector St. Petersburg will give notice of the enforcement of the safety zone by issuing Broadcast Notice to Mariners 24 to 48 hours prior to the start of enforcement. On-Scene notice will be provided by Coast Guard or other local law enforcement maritime units enforcing the safety zone as designated representatives of Captain of the Port Sector St. Petersburg.

**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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This rule will only be enforced when vessel traffic is expected to be minimal, and traffic will be allowed to enter the zone with the permission of the Captain of the Port Sector St. Petersburg or designated representative.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit near the Sanibel Island Bridge span “A” from 6 a.m. on October 16, 2006 through 9 p.m. on March 31, 2007. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will only be enforced when vessel traffic is expected to be minimal, and traffic will be allowed to enter the zone with the permission of the Captain of the Port Sector St. Petersburg or designated representative.

#### **Assistance for Small Entities**

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 the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the office listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. Small businesses may also 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 an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### **Taking of Private Property**

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Civil Justice Reform**

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### **Protection of Children**

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### **Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the

Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### **Energy Effects**

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### **Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### **Environment**

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, 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 that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final “Environmental Analysis Check List” and a final “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; 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. Add temporary § 165.T07–219 to read as follows:

**§ 165.T07–219 Safety Zone; Ft. Myers Beach, Florida.**

(a) *Location.* The Coast Guard is establishing a temporary safety zone on the waters of San Carlos Bay, Florida, in the vicinity of the Sanibel Island Bridge span “A”. This safety zone includes all waters from surface to bottom, within a 400 foot radius extending from the center portion of span “A” at the following coordinates: 26°28'59" N, 082°00'52" W. All coordinates referenced use datum: NAD 83.

(b) *Definitions.* The following definitions apply to this section:

*Designated representative* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the Captain of the Port Sector St. Petersburg, Florida, in the enforcement of regulated navigation areas and safety and security zones.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may anchor, moor or transit the Regulated Area without the prior permission of the Captain of the Port Sector St. Petersburg, Florida, or his designated representative.

(d) *Dates.* This rule is effective from 6 a.m. on October 16, 2006 through 9 p.m. on March 31, 2007.

(e) *Enforcement period.* This regulated area will only be enforced during specific periods between the dates specified in paragraph (d), while construction operations are taking place. The Coast Guard does not know the exact dates of the construction operations at this time, however Sector St. Petersburg will announce each enforcement period by issuing

Broadcast Notice to Mariners 24 to 48 hours prior to the start of enforcement. Additionally, on-scene notice will be provided by Coast Guard or other local law enforcement maritime units enforcing the safety zone.

Dated: October 16, 2006.

**J.A. Servidio,**

*Captain, U.S. Coast Guard, Captain of the Port Sector St. Petersburg, Florida.*

[FR Doc. E6-18392 Filed 10-31-06; 8:45 am]

**BILLING CODE 4910-15-P**

**POSTAL SERVICE****39 CFR Part 111****New Standards for Mailing Sharps and Other Regulated Medical Waste Containers**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service revises the standards for mailing sharps and other regulated medical waste containers. The new standards include improvements to the packaging, the package testing, and the process for authorizing and suspending authorization.

**DATES:** *Effective Date:* November 9, 2006.

**FOR FURTHER INFORMATION CONTACT:** Bert Olsen, 202-268-7276.

**SUPPLEMENTARY INFORMATION:****Background**

We published a proposed rule in the **Federal Register** (71 FR 19840, April 18, 2006) to revise the standards for mailing sharps and other regulated medical waste containers. Our proposal included the following changes:

1. To require container vendors to provide the Postal Service with the names and addresses of their distributors and to provide updates on a quarterly basis.

2. To revise the process for authorizing and suspending authorization for mailing sharps and other regulated medical waste containers to enhance monitoring and control of medical waste in the mail.

3. To revise container standards and container testing standards to ensure that container testing is performed on a consistent basis for all sharps and other regulated medical waste containers.

**Comments Received**

We received comments from four authorized sharps container vendors and one potential vendor. All commenters supported the concept of revising the rules to promote uniform

testing methods and to ensure the integrity of mailpieces containing sharps and other medical waste.

**Documentation Requirements**

Three commenters objected to the requirement that vendors provide a list of distributors to the Postal Service. All three commenters argued that requiring vendors to provide a quarterly list of distributors could lead to disclosure of sensitive proprietary vendor information. We agree that the Postal Service can identify a vendor's distributors, if needed, by requiring vendors to provide this information on request. Therefore, the final rule requires vendors to provide the names, addresses, and telephone numbers of their distributors to the Postal Service only on request.

**Packaging**

One commenter objected to a minimum size limit for the biohazard symbol placed on the outer shipping container. The commenter stated that requiring a 3 inch by 4 inch symbol would be excessively large on a small mailpiece. The Postal Service notes that currently no approved medical waste mailpieces are so small as to not easily accommodate a 3 inch by 4 inch biohazard symbol. The new standard will clarify that the 3 inch by 4 inch label requirement applies to the outer shipping container. For safety reasons, medical waste containers must be easily identified as containing biohazardous materials. Therefore, this final rule adopts the standard as published in the proposal.

Three commenters did not want the Postal Service to eliminate the use of outer shipping containers with interlocking bottoms. All three commenters stated that current requirements that allow for the use of shipping containers with interlocking bottom flaps reinforced with tape are more than adequate, especially considering the overall rigorous testing mandates. After further consultation with package testing professionals, we conclude that interlocking bottom flaps sufficiently contain the primary receptacle, particularly when reinforced with tape. Therefore, we will maintain our current standards that allow interlocking bottoms when they are reinforced with water-resistant tape.

Two commenters requested clarification of the proposed changes to the secondary container requirements. The commenters stated that increasing the plastic bag thickness requirement from 3 mil to 4 mil was not necessary. In addition, they stated that it was not advantageous to require the plastic bag