

establishes Class E2 airspace at Binghamton, NY by expanding the controlled airspace, extending upward from the surface of the Earth to support IFR operations at Binghamton Regional/Edwin A. Link Field Airport to a 4.3-mile radius with minor extensions for arrivals.

Class D, Class E2 and E4 airspace designations for airspace areas extending upwards from the surface of the Earth are published in Paragraph 5000, 6002 and 6004 respectively, of FAA Order 7400.9S, dated October 3, 2008, and effective October 31, 2008, which is incorporated by reference in 14 CFR 71.1. The Class D and E2 airspace designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation

is within the scope of that authority as it modifies the Class D, E2 and E4 airspace at Binghamton Regional/Edwin A. Link Field Airport in Binghamton, NY.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9S, Airspace Designations and Reporting Points, dated October 3, 2008, and effective October 31, 2008, is amended as follows:

Paragraph 5000 Class D Airspace.

\* \* \* \* \*

AEA NY D Binghamton, NY [REVISED]

Binghamton Regional/Edwin A. Link Field Airport, Binghamton, NY (Lat. 42°12'31" N, long. 75°58'47" W)

That airspace extending upward from the surface to and including 4,100 feet MSL within a 4.3-mile radius of the Binghamton Regional/Edwin A. Link Field Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

Paragraph 6002 Class E Airspace

Designated as Surface Areas.

\* \* \* \* \*

AEA NY E2 Binghamton, NY [NEW]

Binghamton Regional/Edwin A. Link Field Airport, Binghamton, NY (Lat. 42°12'31" N, long. 75°58'47" W) Binghamton VORTAC (Lat. 42°09'27" N, long. 76°08'11" W) SMITE LOM (Lat. 42°06'17" N, long. 75°53'29" W) ILS Runway 34 Localizer (Lat. 42°13'12" N, long. 75°59'15" W)

That airspace extending upward from the surface of the Earth within a 4.3-mile radius of the Binghamton Regional/Edwin A. Link Field Airport and within 1.6 miles each side

of the 070° bearing from the airport to 9.3 miles northeast of the airport and within 1.8 miles each side of the Binghamton VORTAC 067° bearing from the VORTAC to the 4.3-mile radius to the airport and within 1.8 miles each side of the Binghamton Regional/Edwin A. Link Field Airport ILS LOC SE course extending from the 4.3-mile radius of the airport to 1.8 miles SE of the SMITE LOM. This Class E Surface airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

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Paragraph 6004 Class E Airspace Designated as an Extension to Class D Surface Areas.

\* \* \* \* \*

AEA NY E4 Binghamton, NY [REVISED]

Binghamton Regional/Edwin A. Link Field Airport, Binghamton, NY (Lat. 42°12'31" N, long. 75°58'47" W) Binghamton VORTAC (Lat. 42°09'27" N, long. 76°08'11" W) SMITE LOM (Lat. 42°06'17" N, long. 75°53'29" W) Binghamton Regional/Edwin A. Link Field Airport ILS Runway 34 Localizer (Lat. 42°13'12" N, long. 75°59'15" W)

That airspace extending upward from the surface within 1.6 miles each side of the 070° bearing from the airport to 9.3 miles northeast of the airport and within 1.8 miles each side of the Binghamton VORTAC 067° bearing from the VORTAC to the 4.3-mile radius to the airport and within 1.8 miles each side of the Binghamton Regional/Edwin A. Link Field Airport ILS LOC SE course extending from the 4.3-mile radius of the airport to 1.8 miles SE of the SMITE LOM. This Class E Surface airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

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Issued in College Park, Georgia, on April 2, 2009.

Myron A. Jenkins, Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. E9-8835 Filed 4-17-09; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0240]

RIN 1625-AAOO

Safety Zone, Red River, MN

AGENCY: Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard Captain of the Port, Marine Safety Unit Duluth, MN is establishing a temporary safety zone on the Red River, MN. This safety zone is being established to ensure, to the extent practicable, the safety of the public. The safety zone prohibits individuals from entering all navigable waters of the Red River, in the State of Minnesota, north of a line drawn across latitude 46°20'00" N, including those portions of the river in Wilkin, Clay, Norman, Polk, Marshall and Kittson counties, extending to the United States-Canada international border.

**DATES:** This rule is effective from 12 p.m. on March 31, 2009 until 5 p.m. on April 24, 2009. If the river conditions change such that enforcement of the Safety Zone is unnecessary prior to 5 p.m. on April 24, 2009, the COTP will notify the public via a Broadcast Notice to Mariners.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0240 and are available online at <http://www.regulations.gov>. They are also available for inspection or copying at two locations: 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, and the Coast Guard Marine Safety Unit Duluth, MN, 600 S. Lake Avenue, Duluth, MN, 55802 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call LT Aaron Gross, Chief of Port Operations, Marine Safety Unit Duluth, 600 S. Lake Avenue, Duluth, MN 55802; (218) 720-5286 Ext. 111. 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 doing so would be contrary to the emergency nature for which this safety zone is being established. Specifically, inclement weather has caused the Red River to flood, and in an effort to protect the public, to the extent practicable, from the dangers of the flood it is necessary to publish this temporary rule without notice and comment.

For that same reason, 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**.

**Background and Purpose**

This temporary safety zone is necessary to ensure, to the extent practicable, the safety of the public from hazards involved with the flooding of the Red River. Restricted access to the Red River by the public will help protect persons and property from the dangers associated with the flooding along the Red River.

**Discussion of Rule**

A temporary safety zone is necessary to ensure, to the extent practicable, the safety of and property from the hazards presented from the flooding of the Red River. The safety zone will be in effect from March 31, 2009 until 5 p.m. on April 24, 2009.

The safety zone will encompass all navigable waters of the Red River in the State of Minnesota north of a line drawn across latitude 46°20'00" N, including those portions of the river in Wilkin, Clay, Norman, Polk, Marshall and Kittson counties, extending to the United States-Canada international border.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or his designated on-scene representative. The Captain of the Port or his designated 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.

**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 safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect only until the Red River is deemed safe to transit. Further, vessel operators desiring to enter or operate within the safety zone may contact the Captain of the Port Duluth or his on-scene representative to seek permission to do so.

**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 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 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 5100.1 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 under the Instruction 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. This temporary rule establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

### 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. 3306, 3703 and Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T09–0240 to read as follows:

#### § 165.T09–0240 Safety zone; Red River Safety Zone, Red River, MN.

(a) *Location.* The following area is a temporary safety zone: all navigable waters of the Red River in the State of Minnesota north of a line drawn across latitude 46°20′00″ N, including those portions of the river in Wilkin, Clay, Norman, Polk, Marshall and Kittson counties, to the United States—Canada international border.

(b) *Enforcement period.* This rule will be enforced from 12 p.m. on March 31, 2009 until 5 p.m. on April 24, 2009. If the River conditions change such that enforcement of the Safety Zone is unnecessary prior to 5 p.m. on April 24, 2009, the COTP will notify the public via a Broadcast Notice to Mariners.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Duluth, or his designated on-scene representative.

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

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Duluth or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain

of the Port Duluth or his on-scene representative.

Dated: March 31, 2009.

**M.P. Lebsack,**

*Commander, U.S. Coast Guard, Captain of the Port, Duluth.*

[FR Doc. E9-8911 Filed 4-17-09; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0217]

RIN 1625-AA00

#### Safety Zone; Jordan Bridge Demolition, Elizabeth River, Chesapeake and Portsmouth, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Elizabeth River in the vicinity of Chesapeake and Portsmouth, VA during demolition of the Jordan Bridge. This action is intended to protect mariners and public property on the Elizabeth River from the hazards associated with bridge demolition.

**DATES:** This rule is effective from May 3, 2009 through May 6, 2009, with contingency dates of May 18, 2009 through May 21, 2009 in the event of adverse weather conditions.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0217 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0217 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at two locations: 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 LT Tiffany Duffy, Coast Guard; telephone 757-668-5580, e-mail [Tiffany.A.Duffy@uscg.mil](mailto:Tiffany.A.Duffy@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 any delay encountered in this regulation’s effective date by publishing a NPRM would be contrary to public interest since immediate action is needed to provide for the safety of life and property on navigable waters. Specifically, since debris from a bridge being demolished could lead to severe injury, fatalities and/or destruction of public property, immediate action is needed to protect, to the extent practicable, the public’s safety.

For the same reason, 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 would be contrary to the public interest.

##### Background and Purpose

Coast Guard Sector Hampton Roads has been notified by Delta Demolition Group that construction operations to demolish the Jordan Bridge lift span over the Elizabeth River will commence on May 3, 2009. Due to the need to protect mariners and spectators from the hazards associated with this project, access to the Elizabeth River between the Belt Line Railroad Bridge and the Norfolk and Western Portsmouth Chesapeake Railroad Bridge will be temporarily restricted.

##### Discussion of Rule

The Coast Guard is establishing a temporary safety zone on specified waters of the Elizabeth River in the vicinity of Chesapeake and Portsmouth, VA. This safety zone will encompass all navigable waters of the Elizabeth River between the Belt Line Railroad Bridge at approximate position 36°48’42” N/ 76°17’25” W (NAD 1983) and the Norfolk and Western Portsmouth Chesapeake Railroad Bridge at approximate position 36°47’49” N/ 76°17’34” W (NAD 1983). This regulated area will be established in the interest

of public safety during the removal of the Jordan Bridge lift span and will be enforced from May 3, 2009 through May 6, 2009, with contingency dates of May 18, 2009 through May 21, 2009 in the event of adverse weather conditions. Access to the area within the safety zone will be restricted during the specified date and times or until swing span removal is complete, whichever is sooner. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

##### 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. Although this proposed regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

##### 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 may be small entities: The owners or operators of vessels intending to transit a portion of the Elizabeth River during the time this regulation is in effect. Since the impact