

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 023-01 and Commandant Instruction M16475.1D, 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 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 is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

### List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Suspend § 117.911(f) from October 4, 2010 until October 4, 2011.

■ 3. From October 4, 2010 until October 4, 2011 add § 117.911(g) to read as follows:

#### § 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

\* \* \* \* \*

(g) Lady's Island Bridge, across the Beaufort River, Mile 536.0 at Beaufort. The draw shall operate as follows:

(1) On Monday through Friday, except federal holidays:

(i) From 7:15 a.m. to 8:59 a.m., 11:15 a.m. to 12:59 p.m., and 4:15 p.m. to 5:59 p.m. the draw need not open; and

(ii) Between 9 a.m. to 11 a.m. and 1 p.m. to 4 p.m., the draw need open only on the hour.

(2) At all times other than those specified in (1) above, the draw shall open on signal.

Dated: September 21, 2010.

**W.D. Baumgartner,**

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0886]

RIN 1625-AA00

#### Regulated Navigation Area; Reserved Channel, Boston Harbor, Boston, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a Regulated Navigation Area (RNA) in Boston Harbor, Reserved Channel, the Boston Marine Industrial Park and a portion of the Boston Inner Harbor shipping channel, Boston, Massachusetts, for the offload of six cranes from the barge CHICAGO BRIDGE to Conley Terminal in South Boston. This rule is intended to control entry to the Reserved Channel, establish operating conditions for those vessels allowed entry into the Reserved Channel and control the speed of all vessels transiting within the RNA. The RNA is necessary to protect participants and vessels from the hazards associated with the offload of these cranes.

**DATES:** This rule is effective in the Code of Federal Regulations from October 4, 2010 through November 15, 2010, and is effective with actual notice for purposes of enforcement beginning on September 20, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0886 and are available online by going

to <http://www.regulations.gov>, inserting USCG-2010-0886 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at 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 Lieutenant Commander Pamela P. Garcia, Waterways Management Division, Coast Guard; telephone 617-223-3028, e-mail [Pamela.P.Garcia@uscg.mil](mailto:Pamela.P.Garcia@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. The Coast Guard was not provided with the logistics regarding the offload operation until September 8, 2010. This did not leave sufficient time to draft and publish an NPRM or take public comments, making prior notice and opportunity to comment impracticable without delaying the crane offloading. The crane offloading benefits a public agency, the Massachusetts Port Authority (Massport), and therefore it would be contrary to the public interest to delay the offloading to afford prior notice and opportunity to comment; it would also be contrary to the public interest to let the crane offloading proceed without establishing an RNA, because this would unnecessarily jeopardize public safety during the offloading.

For the same reasons 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**.

### **Basis and Purpose**

This temporary rule establishes the Reserved Channel, the Boston Marine Industrial Park and a portion of the Boston Inner Harbor shipping channel, Boston, Massachusetts, as a Regulated Navigation Area while the barge CHICAGO BRIDGE conducts crane offload operations at Conley Terminal, Berth 12, for the benefit of the Massachusetts Port Authority, a public agency. The offload evolution requires a sea state no greater than 1 foot. This RNA intends to control the movement of vessels within the regulated area to a no-wake speed or bare steerage, and have all vessels maintain a minimum distance of 100 yards in all directions from the barge CHICAGO BRIDGE. The RNA will protect those conducting the crane offload operation and the general maritime public from the dangers inherent in such an evolution. The Captain of the Port (COTP) anticipates minimal negative impact on vessel traffic due to the implementation of this RNA. Public notifications will be made prior to and during the enforceable period of the area via Safety Marine Information Broadcast.

### **Discussion of Rule**

This RNA has been established to safeguard the maritime public during the crane offload operation. The offload evolution is tide and weather dependent and requires two separate 12-hour periods to complete. These operational periods will be on two separate days, with at least a 48 hour break in between, determined to be the most suitable for safety to adjust equipment used to conduct the offload operations. If circumstances dictate and other operational periods are required, public notification will be made to the local maritime community through Local Notice to Mariners and Safety Broadcast Notice to Mariners.

Due to the complexity and danger of the crane offload operation the Reserved Channel will be closed to those vessels that do not routinely conduct business within the Reserved Channel or maintain a permanent mooring that requires access through the channel. Deep-draft vessels not currently scheduled to call upon Conley terminal or Black Falcon terminal, properties owned by Massport, from September 20, 2010 thru November 15, 2010, must coordinate arrival schedules with Massport as soon as possible and prior to authorization into the Reserved Channel. Vessels transiting the RNA must do so at such a speed as to maintain bare steerage or not cause a wake. Vessels transiting the Reserved

Channel must also maintain a minimum distance of 100 yards in all directions from the barge CHICAGO BRIDGE.

The barge must be moored perpendicular to Conley terminal for offload, thus partially blocking the entrance to the Reserved Channel to deep-draft vessels. The offload will be coordinated around the dynamic schedules of surrounding deep-draft vessels to provide for limited disruption to the maritime industry. Prior to the offload of the cranes, the Coast Guard will be provided with proposed dates and times for approval, which will determine the RNA enforcement period. The RNA enforcement period will be announced via Safety Marine Information Broadcast. There will be a picket vessel within the RNA to provide notice of the RNA as well as to control vessel speed, vessel access to the Reserved Channel and to prevent any vessel not involved in the crane offload evolution from approaching to within 100 yards of the barge CHICAGO BRIDGE.

### **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.

The Coast Guard has determined that this rule is not a significant regulatory action for the following reasons: The RNA will be of limited duration, it covers only a small portion of the navigable waterway and vessel traffic can still transit within the RNA but at slow speed so as not to create a wake that would disrupt offload operations.

### **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 for the following reasons. This rule will be enforced only for two 12-hour periods, vessels will be able to continue to use the Boston Inner Harbor and the waters surrounding the Boston Marine Industrial Marine Park at such a speed as to maintain bare steerage or not cause a wake, and those vessels that routinely use the Reserved Channel will be able to continue to do so by passing safely around the barge CHICAGO BRIDGE at a minimum distance of 100 yards and at such a speed as to not cause a wake or maintain bare steerage. Before and during the enforcement periods, we will issue maritime advisories to users of Boston Harbor via the on-scene picket vessel as well as through Safety Marine Information Broadcasts.

### **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 (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.

### Taking of Private Property

This rule will not cause 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 023–01 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 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 is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction as this rule involves establishing a temporary RNA.

An environmental analysis checklist and a categorical exclusion determination will be 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 and 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 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 § 165.T01–0886 to read as follows:

### § 165.T01–0886 Regulated Navigation Areas: Reserved Channel, Boston Harbor, Boston, MA

(a) *Location.* The following areas are Regulated Navigation Areas (RNAs):

(1) All waters of the Reserved Channel, the Boston Marine Industrial Park and that portion of Boston Inner Harbor south of a line running from the North Jetty, at position 42°20′49″ N, 71°01′23.6″ W, to Boston Main Channel Lighted Buoy 12 (LLNR 10920), and west of a line running from Boston Main Channel Lighted buoy 12 to Boston Main Channel Lighted buoy 8 (LLNR 10905), and north of a line running from Boston Main Channel Lighted buoy 8 to Castle Island at position 42°20′21.1″ N, 71°00′35.1″ W.

(2) Boston Harbor, Boston, Massachusetts, from surface to bottom while barge CHICAGO BRIDGE is involved in offload operations.

(b) *Effective Period.* This rule is effective from September 20, 2010, thru November 15, 2010.

(c) *Enforcement Period.* This rule will be enforced during two separate 12-hour operational periods to be announced no less than 24 hours in advance via a Safety Marine Information Broadcast. If circumstances dictate and other operational periods are required, public notification will be made to the local maritime community through Local Notice to Mariners and Safety Broadcast Notice to Mariners.

(d) *Definition.* As used in this section, “authorized representative” means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP.

(e) *Regulations.* The following restrictions apply to the two 12-hour operational periods during which the RNA will be enforced:

(1) Vessels must transit through the RNA at such a speed as to not cause a wake or maintain bare steerage;

(2) Vessels that do not routinely conduct business within the Reserved Channel or maintain a permanent mooring which requires access through the Reserved Channel are not authorized within that portion of the RNA that lies within the Reserved Channel;

(3) Deep-draft vessels not currently scheduled to call upon Conley terminal or Black Falcon terminal from September 20, 2010 thru November 15, 2010 must coordinate arrival schedules with the Massachusetts Port Authority as soon as possible and prior to

authorization into that portion of the RNA that lies within the Reserved Channel; and

(4) Vessels allowed to transit the Reserved Channel must maintain a minimum distance of 100 yards in all directions from barge CHICAGO BRIDGE.

Dated: September 17, 2010.

**Daniel A. Neptun,**

*Rear Admiral, U.S. Coast Guard, Commander,  
First Coast Guard District.*

[FR Doc. 2010-24773 Filed 10-1-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0821]

RIN 1625-AA87

#### Security Zones; Captain of the Port Buffalo Zone; Technical Amendment

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising the contact information for Marine Safety Detachment Massena in the regulation establishing the process for getting permission to transit the security zones at Moses-Saunders Nuclear Power Dam, and Long Sault Spillway Dam. This action is necessary because the telephone number is incorrect, and this action will ensure the ability of persons or vessels to gain permission to transit these areas.

**DATES:** This rule is effective October 4, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0821 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0821 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at 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 rule, call or e-mail MSSD2 John Maurer, Marine Safety Detachment Massena, Coast Guard; telephone (315) 769-5483, e-mail [John.A.Maurer@uscg.mil](mailto:John.A.Maurer@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 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 notice and comment is unnecessary. This rule is minor and merely technical in nature in that it simply amends a telephone number for the point of contact at Marine Safety Detachment Massena.

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**. Good cause exists because delaying the effective date is unnecessary. This rule is minor and merely technical in nature in that it simply amends a telephone number for the point of contact at Marine Safety Detachment Massena.

##### Background and Purpose

The Captain of the Port Buffalo has previously established a security zone in the vicinity of Moses-Saunders Power Dam and the Long Sault Spillway Dam. This security zone exists in 33 CFR 165.911. Persons desiring to transit the area of the Moses-Saunders Power Dam and the Long Sault Spillway Dam must contact the Supervisor, Marine Safety Detachment Massena. Currently, 33 CFR 165.911 provides an incorrect telephone number for the Supervisor, Marine Safety Detachment Massena.

##### Discussion of Rule

The Captain of the Port Buffalo is publishing this final rule to correct the telephone number currently published in 33 CFR 165.911 for the Supervisor, Marine Safety Detachment Massena. This correction is necessary so that the public may contact the appropriate Coast Guard office to receive permission to transit the security zones in the area of the Moses-Saunders Power Dam and the Long Sault Spillway Dam.

##### 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.

The Coast Guard determined that this rule is not a significant regulatory action because it is only a correction of the contact information in the previous rule, not a substantive change of the regulation.

##### 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 have no effect on small entities because it is purely minor and technical in nature in that it merely corrects the telephone number for the point of contact at Marine Safety Detachment Massena.

##### 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