

## Public Meeting

We do not now plan to hold a public meeting, but you may submit a request for one using four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

## Basis and Purpose

Senator Phil Rockefeller and Representative Christine Rolfes of the Washington State Legislature have requested that the operating regulations of the Hood Canal Bridge be changed in order to try to provide some relief to road traffic on State Routes 3 and 104. Traffic queues south of the eastern end of the bridge can be long during and after openings of the drawspan. The stopped road traffic on this two-lane highway blocks access to intersecting streets along the queue.

The operating regulations currently in effect for the bridge are found at 33 CFR 117.1045. These state that the bridge shall open on signal if at least one hour notice is provided and that the draw shall be opened horizontally for three hundred feet unless the maximum opening of 600 feet is requested. The current regulations remain in effect except for the establishment of the restricted period.

Navigation on the waterway consists of commercial tugs with tows, recreational vessels of various sizes, commercial fishing vessels, and U.S. naval vessels with escort vessels including those of the U.S. Coast Guard.

This change will not affect naval vessels or vessels in service to the Navy. Unlike many other restricted or closed periods in effect for certain drawbridges, this restriction will not guarantee the complete absence of interruptions to vehicular traffic in the designated hours. At best it would diminish openings without eliminating them entirely during the affected hours. Approximately, one half of all openings of the Hood Canal draw are for the passage of Navy ships, submarines, and other vessels in service to the Navy. The movement of vessels for national security purposes or emergencies cannot be impeded by drawbridge operating regulations.

Recreational vessels too tall to pass under the fixed spans of the bridge generally ply Hood Canal seasonally. Most of this taller recreational traffic occurs from June through September. These are the only months subject to this test deviation.

The openings for the full width of this floating drawspan are much slower than

for a typical bascule type of draw. While some openings and closings have been completed within 20 minutes or less, others have lasted far longer than 30 minutes increasing traffic queues on the road. Traffic has generally exceeded 1200 vehicles per hour throughout the week from 9 a.m. to 6 p.m. However, peak traffic loads are not discernable for the morning hours as for the afternoon hours. Draw openings can occur at any time and do. A further difficulty is that this variability makes it difficult to match waterway traffic to peak road travel times.

For example in June 2010 draw records show that the Hood Canal Bridge opened a total of 29 times including one movement that was for testing the draw. Of these 16 were for pleasure craft and the rest were for military vessels. There were only five days with more than one opening per day. July 2010 was busier than June. In July 43 openings occurred. Five of these were operational tests. It opened 22 times for pleasure craft, twice for commercial vessels and 19 times for the Navy.

For the hours affected by these test deviation, in July 2010 there were 5 openings for the Navy, 2 for sailboats, and one for a tug with tow.

The Coast Guard will evaluate public comments from this Test Deviation as well as draw records and road traffic data after the end of the test period. We may seek to make this change permanent for the following year or modify it via a Notice of Proposed Rulemaking, or maintain the current regulations based on the effectiveness of this test for both navigation and road traffic.

From 3 p.m. to 6 p.m. every day from 3 p.m. on May 27 through 6 p.m. on September 30, 2011, the draw need not open for vessels other than those of the U.S. Navy or vessels attending the missions of the U.S. Navy. The established regulations found at 33 CFR 117.1045 remain in effect with that exception.

This test deviation is authorized under 33 CFR 117.35. In accordance with 33 CFR 117.35(e), the Hood Canal Bridge will return to its regular operations at the end of the designated time period.

Dated: April 25, 2011.

**G.T. Blore,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0297]

RIN 1625-AA00

#### Safety Zone; Repair of High Voltage Transmission Lines to Logan International Airport, Saugus River, Saugus, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Saugus River, Lynn, Massachusetts, within the Captain of the Port (COTP) Boston Zone to allow for repair of high voltage transmission lines to Logan Airport. This safety zone is required to provide for the safety of life on navigable waters during the repair of high voltage transmission lines. Entering into, transiting through, mooring or anchoring within this zone is prohibited unless authorized by the COTP.

**DATES:** This rule is effective from 9 a.m. on May 7, 2011, to 9 a.m. on May 9, 2011. The regulation will be enforced from 9 a.m. to 2 p.m. daily on May 7, 2011, and May 8, 2011.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2011-0297 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0297 in the "Keyword" box, and then clicking "Search." This material is 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 MST1 David Labadie of the Waterways Management Division, U.S. Coast Guard Sector Boston; telephone 617-223-3010, e-mail [david.j.labadie@uscg.mil](mailto:david.j.labadie@uscg.mil). If you have questions on viewing material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

## Regulatory Information

On January 26, 2011, we published a notice of proposed rulemaking (NPRM) entitled, Safety Zone; Repair of High Voltage Transmission Lines to Logan International Airport, Saugus River, Saugus, Massachusetts, in the **Federal Register** (76 FR 4575–4577). We received no comments on the proposed rule. No public meeting was requested, and none was held.

On April 8, 2011, we published a final rule (FR) of the same in the **Federal Register** (76 FR 19698–19701). In the final rule, the safety zone has an effective date beginning on May 9, 2011. Based on limited equipment availability, the repair date schedule has since been moved up to May 7, 2011 and May 8, 2011.

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 sufficient information regarding the change of the repair date was not received in time to publish a NPRM followed by a final rule before the effective date, thus making the publication of a NPRM impractical. Immediate action is necessary to provide for the safety of life on navigable waters during the repair of high voltage transmission lines.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** because the safety zone as currently published, will not be in effect until after the completion of the repair operations for which the safety zone is required. The timeline for this rule is based on the limited availability of equipment needed to complete the repairs. Because of the vital importance of the repairs to Logan Airport, and the safety zone necessary to complete those repairs, delaying this rule would be contrary to public interest.

## Background and Purpose

This rule is necessary to ensure the safety of vessels and workers from the hazards associated with work related to repairs of high voltage transmission

lines over navigable waters. This temporary safety zone will be in effect during the repair of the high voltage transmission lines that feed Logan Airport. The safety zone will be enforced immediately before, during and after the start of the repairs. National Grid, the transmission line repair company has specified the repairs will take place on May 7, 2011 and May 8, 2011, to begin each day at 9 a.m. and end at 2 p.m.

The COTP will also inform the public using a variety of means, including Local Notice to Mariners and Broadcast Notice to Mariners.

All persons and vessels shall comply with the instructions of the COTP Boston or the designated on-scene representative. Entering into, transiting through, mooring or anchoring within the safety zone is prohibited unless authorized by the COTP Boston or the designated on scene representative. The COTP or the designated on scene representative may be contacted via VHF Channel 16 or by telephone at (617) 223–5750.

## 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 for the following reasons: The safety zone will be of limited duration, is located in a waterway that has no deep draft commercial traffic and is designed to avoid, to the extent possible, fishing and recreational boating traffic routes. Persons and vessels may still enter, transit through, anchor in, or remain within the regulated area if they obtain permission from the COTP or the designated representative.

## Small Entities

### *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 would 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 enter, transit through, moor or anchor in a portion of the Saugus River during a 48 hour enforcement period related to repairs of high voltage transmission lines to Logan Airport.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: National Grid intends to make repairs to the high voltage transmission lines running to Logan Airport during a 48 hour period between the hours of 9 a.m. and 2 p.m. daily. This time window will allow the local lobster fishing fleet to transit to the fishing grounds and return home at night with only minor inconvenience. The local harbor masters have notified their tenants in advance of the intended repairs, thus allowing Saugus River users to plan accordingly. Vessel traffic will be allowed to pass through the zone prior to 9 a.m. and after 2 p.m. and if necessary through the zone if they first obtain permission from the COTP. Before the effective period, we will issue maritime advisories widely available to users of the river.

## 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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact MST1 David Labadie at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

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 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 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 (34)(g), of the Instruction. This rule involves the establishment of a safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and recordkeeping requirements, 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(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 § 165.T01-0297 to read as follows:

#### § 165.T01-0297 Safety Zone; Repair of High Voltage Transmission Lines to Logan International Airport; Saugus River, Saugus, MA.

(a) *General.* A temporary safety zone is established for repair of high voltage transmission lines to Logan International Airport; Saugus River, Saugus, MA:

(1) *Location.* All waters of the Saugus River, from surface to bottom, within a 250-yard radius of position 42°26'42" N; 070°58'14" W.

(2) *Effective Period.* This rule is effective from 9 a.m. on May 7, 2011 to 9 a.m. on May 9, 2011.

(3) *Enforcement Period.* This rule will be enforced from 9 a.m. to 2 p.m. daily on May 7, 2011 and May 8, 2011.

(b) *Regulations.* (1) In accordance with the general regulations in Section 165.23 of this part, entry into, transiting or anchoring within this regulated area is prohibited unless authorized by the Captain of the Port (COTP) Boston, or his designated on-scene representative.

(2) The "on-scene representative" of the COTP Boston is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP Boston to act on his behalf. The on-scene representative will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The COTP or the designated on-scene representative may be contacted by telephone at 617-223-5750 or on VHF Channel 16.

(3) Persons and vessels desiring to enter, transit through, anchor in, or

remain within the regulated area may request permission from the COTP or the designated representative by contacting Sector Boston by telephone at 617-223-5750 or VHF radio channel 16.

Dated: April 22, 2011.

**John N. Healey,**

*Captain, U.S. Coast Guard, Captain of the Port Boston.*

[FR Doc. 2011-11057 Filed 5-5-11; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2009-0686; FRL-8865-4]

RIN 2070-AB27

### Multi-Walled Carbon Nanotubes; Significant New Use Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is issuing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance identified generically as multi-walled carbon nanotubes (MWCNT) which was the subject of premanufacture notice (PMN) P-08-199. This action requires persons who intend to manufacture, import, or process the chemical substance for a use that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity. EPA believes that this action is necessary because the chemical substance may be hazardous to human health. The required notification would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

**DATES:** This final rule is effective June 6, 2011.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPPT-2009-0686. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are

available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Jim Alwood, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; *telephone number:* (202) 564-8974; *e-mail address:* [alwood.jim@epa.gov](mailto:alwood.jim@epa.gov).

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; *telephone number:* (202) 554-1404; *e-mail address:* [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Does this action apply to me?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substance which is the subject of this final rule. Potentially affected entities may include, but are not limited to:

- Manufacturers, importers, or processors of the subject chemical substance (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. If you have any questions regarding the applicability of this action

to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127; see also 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. For importers of the chemical substance subject to this SNUR, those requirements include the SNUR. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export the chemical substance that is the subject of this final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

## II. Background

### A. What action is the agency taking?

EPA is finalizing a SNUR under TSCA section 5(a)(2) for the chemical substance identified generically (due to confidentiality claims) as multi-walled carbon nanotubes (PMN P-08-199). This action requires persons who intend to manufacture, import, or process the subject chemical substance for an activity that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity.

Previously, in the **Federal Register** issue of February 3, 2010 (75 FR 5546) (FRL-8796-7), EPA issued a proposed SNUR on the chemical substance. On July 28, 2010 (75 FR 44198) (FRL-8828-3), in order to address public comment and add information to the docket, EPA reopened the comment period for 30 days. In response to comments on the basis for the SNUR, EPA developed a revised summary document entitled "Summary of EPA's Current Assessments of Health and Environmental Effects of Carbon Nanotubes," that specifies EPA's current hazard concerns as supported by available information and data. The docket for the proposed SNUR on this chemical substance is found under docket ID number EPA-HQ-OPPT-2009-0686. That docket includes information considered by the Agency in developing this final rule, including comments on the rule and the