

by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source. Any portion of this system that falls under the provisions of 5 U.S.C. 552a(k)(2) may be exempt from the following subsections of 5 U.S.C. 552a(c)(3); (d); (e)(1); (e)(4)(G), (H), and (I) and (f).

(ii) *Authority*: 5 U.S.C. 552a(k)(2).

(iii) *Reasons*: (A) From subsection (c)(3) because it will enable OSD components to conduct certain investigations and relay law enforcement information without compromise of the information, protection of investigative techniques and efforts employed, and identities of confidential sources who might not otherwise come forward and who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(B) From subsections (e)(1), (e)(4)(G), (H), and (I) because it will provide protection against notification of investigatory material including certain reciprocal investigations and counterintelligence information, which might alert a subject to the fact that an investigation of that individual is taking place, and the disclosure of which would weaken the on-going investigation, reveal investigatory techniques, and place confidential informants in jeopardy who furnished information under an express promise that the sources' identity would be held in confidence (or prior to the effective date of the Act, under an implied promise).

(C) From subsections (d) and (f) because requiring OSD to grant access to records and agency rules for access and amendment of records would unfairly impede the investigation of allegations of unlawful activities. To require OSD to confirm or deny the existence of a record pertaining to a requesting individual may in itself provide an answer to that individual relating to an on-going investigation. The investigation of possible unlawful activities would be jeopardized by agency rules requiring verification of record, disclosure of the record to the subject, and record amendment procedures.

Dated: August 24, 2011.

**Patricia L. Toppings,**  
*OSD Federal Register Liaison Officer,*  
*Department of Defense.*

[FR Doc. 2011-23758 Filed 9-19-11; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0857]

RIN 1625-AA11

#### Regulated Navigation Area; Saugus River, Lynn, MA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a Regulated Navigation Area (RNA) on the navigable waters of the Saugus River in Lynn, Massachusetts. This temporary rule allows the Coast Guard to suspend all vessel traffic within the regulated area to allow for stabilization operations that could pose a safety hazard to vessels operating in the area. This temporary rule is necessary to enhance vessel safety, marine environmental protection, and provide for the safety of life on the navigable waters during the removal of a damaged section of the Energy Systems Pipeline Bridge at Mile 2.3 of the Saugus River.

**DATES:** This rule is effective in the CFR on September 20, 2011 until 5 p.m. on November 9, 2011. This rule is effective with actual notice for purposes of enforcement from 8 a.m. on September 12, 2011 until 5 p.m. on November 9, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0857 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0857 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 Mr. Mark Cutter, U.S. Coast Guard Sector Boston Waterways Management Division, Coast Guard;

telephone 617-223-4000, e-mail [Mark.E.Cutter@uscg.mil](mailto:Mark.E.Cutter@uscg.mil), or Lieutenant Junior Grade Isaac Slavitt, Coast Guard First District Waterways Management Branch, telephone 617-223-8385, e-mail [Isaac.M.Slavitt@uscg.mil](mailto:Isaac.M.Slavitt@uscg.mil). If you have questions on viewing or submitting material to 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 rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedures 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; notice and comment is impracticable because immediate action is necessary to ensure the safety of the public in the vicinity of construction operations being conducted in the Saugus River.

Serious damage to this pipeline bridge was caused during Tropical Storm Irene, which passed through Boston on 28 August, 2011. Currently, the pipeline is leaning over precariously and is in danger of collapsing. Two phases of work are needed for this pipeline: stabilization (which may include removal of the damaged segment), and then full removal at a later date. This rule addresses only emergency stabilization efforts. A separate rule will be promulgated with normal notice and comment periods for the longer term full repair project.

On September 1, 2011, General Electric, the pipeline operators, advised that the Energy Systems Pipeline bridge demolition project would require periodic closures of the Saugus River at mile 2.3 to remove the damaged piping support structure. The hazard that the damaged portion of the Energy Systems Pipeline bridge poses to the navigational channel necessitates that all mariners comply with this RNA. Immediate action is needed to control vessels operating in the restricted waterway in order to facilitate repairs and to protect the maritime public from the hazards associated with the stabilization of this damaged structure. Publishing a NPRM and waiting 30 days for comment would be contrary to the public interest since immediate action is needed to restrict

vessel traffic to effect repairs and to protect the maritime public from the hazards associated with removal of the damaged section of the structure, including falling debris and the use of heavy machinery.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective fewer than 30 days after publication in the **Federal Register**. Any delay would be both impracticable and contrary to the public interest. Immediate action is necessary for the reasons discussed above, supporting good cause under 5 U.S.C. 553(b)(B).

#### **Basis and Purpose**

Under the Ports and Waterways Safety Act, the Coast Guard has the authority to establish RNAs in defined water areas that are determined to have hazardous conditions and in which vessel traffic can be regulated in the interest of safety. See 33 U.S.C. 1231 and Department of Homeland Security Delegation No. 0170.1.

The purpose of this temporary rule is to facilitate the removal of the damaged piping support structure for the Energy Systems Pipeline Bridge located at approximately mile 2.3 of the Saugus River in Lynn, MA. Establishing this temporary rule will allow the necessary stabilization work to be completed and will protect the maritime public from the hazards associated with the demolition of this damaged structure. This structure is in danger of collapse and its stabilization allows for the future safe transit of vessels in the area.

#### **Discussion of Rule**

This action is intended to prohibit vessel traffic on a portion of the Saugus River, when necessary for the safety of navigation, while work is done on the Energy Systems Pipeline Bridge on the Saugus River in Lynn, MA. The regulated area encompasses all waters within 100 yards of either side of the Energy Systems Pipeline Bridge. The Coast Guard may close the area described in this rule to all vessel traffic during any circumstance, planned or unforeseen, that poses a threat to waterway users operating in the area. Complete waterway closures will be made with as much advance notice as possible.

The project consists of stabilization, cutting and removal of damaged abandoned pipeline and associated steel support structure. Demolition operations will temporarily block the navigable channel due to positioning of a barged-based lifting crane, a deck barge, and an associated towing vessel.

Entry into this RNA during a closure is prohibited unless authorized by the Sector Boston Captain of the Port (COTP). In the event of an emergency, all construction equipment shall be removed from the channel to allow for emergency vessels to pass. Any violation of this rule is punishable by, among others, civil and criminal penalties, in rem liability against the offending vessel, and the initiation of suspension or revocation proceedings against Coast Guard-issued merchant-mariner credentials.

The Captain of the Port (COTP) Boston will cause notice of enforcement, suspension of enforcement, or closure of the waterway to be made by all appropriate means for the widest distribution among the affected segments of the public. Such means of notification may include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners.

#### **Regulatory Analyses**

We developed this temporary final 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.

##### *Executive Order 12866 and Executive Order 13563*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, 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 economic impact of this rule will be severely limited for the following reasons: (1) The actual waterway restriction imposed by this RNA is expected to last no longer than 12 hours at a time; (2) demolition work that restricts the navigational channel will be scheduled when there is limited demand for this navigational channel; and (3) advance notification will be made to the maritime community via Local Notice to Mariners, Broadcast Notice to Mariners, and on the Internet at <http://homeport.uscg.mil/boston>.

##### *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 in a portion of the Saugus River during periods of construction until the Energy Systems Pipeline bridge has been structurally stabilized. Several small marinas upriver from the damaged pipeline may also be affected.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: although the regulated navigation area will apply to the entire width of the Saugus River navigational channel, restriction of vessel traffic will be limited to not more than 12 hours at a time and response to traffic demand will be coordinated in advance by the Captain of the Port Boston in consultation with the harbormaster of Lynn, MA. Before the effective period, we will issue maritime advisories widely available to users of the waterway. Additionally, because of the dangerous and unstable nature of the damaged pipeline, many vessel operators may have independently reached the conclusion that it is too dangerous to pass underneath. Therefore, the inherent danger of the damaged pipeline is probably already preventing vessel operators from passing through.

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

##### *Assistance for Small Entities*

Under 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. This rule involves the establishment of a 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, 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, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01-0857 to read as follows:

#### **§ 165.T01-0857 Regulated Navigation Area; Saugus River, Lynn MA.**

(a) *Regulated Area.* The following area is a regulated navigation area: all waters within 100 yards of either side of the Energy Systems Pipeline Bridge at approximately mile 2.3 of the Saugus River in position 42°26'56" N, 070°58'31" W, in Lynn, MA. All geographic coordinates are North American Datum of 1983 (NAD 83).

#### (b) *Regulations.*

(1) The general regulations contained in 33 CFR 165.13 apply.

(2) No vessel may enter or transit through the regulated area during enforcement periods without the express permission of the Captain of the Port (COTP) Boston.

(3) Vessels transiting through the RNA with COTP permission are required to do so at reduced speed so as to produce no wake. Vessels transiting through the RNA with COTP permission must still remain at least 150 feet away from all demolition equipment.

(c) *Effective Period.* This rule is effective from 8 a.m. on September 12, 2011 until 5 p.m. on November 9, 2011.

(d) *Enforcement Period.* This rule will be enforced when necessary for construction operations. The COTP Boston will cause notice of enforcement periods to be made by reasonable means, which may include but are not limited to a Broadcast Notice to Mariners.

Dated: September 9, 2011.

**D. A. Neptun,**

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

[FR Doc. 2011-24051 Filed 9-19-11; 8:45 am]

BILLING CODE 9110-04-P

**DEPARTMENT OF HOMELAND  
SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2011-0847]

RIN 1625-AA00

**Safety Zone; Ryder Cup Captain's Duel  
Golf Shot, Chicago River, Chicago, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Chicago River near Chicago, Illinois. This zone is intended to restrict vessels from a portion of the Chicago River during a golfing event that will involve hitting golf balls from land onto a stationary barge in the river. This temporary safety zone is necessary to protect the public and their vessels from the hazards associated with golf balls being hit from land onto a stationary barge in the river.

**DATES:** This regulation is effective from 4 p.m. until 5 p.m. on September 26, 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-2011-0847 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0847 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, contact or e-mail BM1 Adam Kraft, U.S. Coast Guard Sector Lake Michigan, at (414) 747-7148 or [Adam.D.Kraft@uscg.mil](mailto:Adam.D.Kraft@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 an 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 of this golfing event was not received in sufficient time for the Coast Guard to solicit public comments before the start of the event. Thus, waiting for a notice and comment period to run would be impracticable and contrary to the public interest in that it would prevent the Coast Guard from protecting the public and vessels on navigable waters from the hazards associated with golf balls being hit from land onto a stationary barge in the river.

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**. For the same reasons discussed in the preceding paragraph, a 30-day notice period would also be impracticable and contrary to the public interest.

**Background and Purpose**

The Ryder Cup Captain's Duel Golf Shot event takes place on the Chicago River near Chicago, Illinois from 4 p.m. to 5 p.m. on September 26, 2011. The Captain of the Port, Sector Lake Michigan has determined that this event may present significant hazards to public safety and property due to the fact that six golf balls will be hit from the 16th floor of the Trump Tower, onto a stationary barge located in the middle of the Chicago River.

**Discussion of Rule**

Because of the aforesaid hazards, the Captain of the Port, Sector Lake Michigan has determined that a temporary safety zone is necessary to ensure the safety of spectators and vessels during the golfing event. The safety zone will encompass all waters of the Chicago River, near Chicago, Illinois, between the North Columbus Drive Bascule Bridge, located at approximate position 41°53'19" N, 087°37'13" W and the Michigan Avenue bridge, located at approximate position 41°53'21" N, 087°37'28" W. (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, Sector Lake Michigan, or his or her designated representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Lake Michigan, or his or her designated representative. The Captain of the Port, Sector Lake Michigan, or his or her designated representative may be contacted via VHF Channel 16.

**Regulatory Analyses**

We developed this temporary 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, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that those Orders.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues.

*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 might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Chicago River, Chicago, IL between 4 p.m. and 5 p.m. on September 26, 2011.