

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG–2012–0828]

RIN 1625–AA00

**Safety Zone; Indian Street Bridge Construction, St. Lucie Canal, Palm City, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the St. Lucie Canal, Palm City, Florida to provide for the safety of life and vessels on a narrow waterway during bridge construction for the Indian Street Bridge. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Miami or a designated representative.

**DATES:** This rule is effective from February 11, 2013 through March 11, 2013. This rule will be enforced from 10 a.m. to 4 p.m. each day.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG–2012–0828. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 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 email Lieutenant Junior Grade Mike H. Wu, Sector Miami Prevention Department, Coast Guard; telephone (305) 535–7576, email [Mike.H.Wu@uscg.mil](mailto:Mike.H.Wu@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:**

**Table of Acronyms**

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

**A. Regulatory History and 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 the Coast Guard did not receive all necessary information regarding the bridge construction until January 7, 2013. As a result, the Coast Guard did not have sufficient time to publish a NPRM and to receive public comments prior to the operations. Any delay in the effective date of this rule would be contrary to the public interest because this rule is needed to provide for the safety of life on a navigable waterway of the United States.

For the same reason discussed above, 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**.

**B. Basis and Purpose**

The legal basis for the rule is the Coast Guard’s authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 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; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to provide for the safety of life and vessels on a narrow waterway during bridge construction.

**C. Discussion of Rule**

From February 11, 2013 through March 11, 2013, construction will be conducted on the Indian Street Bridge in Palm City, Florida. The construction will impede the safe navigation of vessel traffic on a narrow waterway.

The temporary safety zone encompasses all waters of the St. Lucie Canal in the vicinity of the Indian Street Bridge, Palm City, Florida. This safety zone will be enforced daily from 10 a.m. to 4 p.m. during this period of bridge construction.

Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the

safety zone unless authorized by the Captain of the Port Miami or a designated representative.

Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port Miami by telephone at 305–535–4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative. The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

**D. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

*1. 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 Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The economic impact of this rule is not significant for the following reasons: (1) The safety zone will be enforced for a maximum of 6 hours daily; (2) persons and vessels may enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Miami or a designated representative; (3) persons and vessels not authorized by the Captain of the Port Miami or designated representative to enter, transit through, anchor in, or remain within the safety zone may operate in the surrounding area during the enforcement period; and (4) the Coast Guard will provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

*2. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended,

requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within the safety zone established by this regulation during the respective enforcement period.

For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

### 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. 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 the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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.

### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct

effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### 7. 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.

### 8. 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.

### 9. 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.

### 10. 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.

### 11. 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.

### 12. Energy Effects

This action is not a “significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

### 13. Technical Standards

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

### 14. 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 determined 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 involves the establishment of a temporary safety zone to provide for the safety of life. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

### 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. 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 a temporary § 165.T07–0828 to read as follows:

**§ 165.T07-0828 Safety Zone; Indian Street Bridge Construction, St. Lucie Canal, Palm City, FL.**

(a) *Regulated Area.* The following regulated area is a safety zone. All waters of the St. Lucie Canal, Palm City, FL surrounding the Indian Street Bridge bounded by the following positions: starting at point 1 in position 27°09'36" N, 80°15'06" W; thence southeast across the canal to position 2 in position 27°09'35" N, 80°15'04" W; thence southwest along the shoreline to position 3 in position 27°09'29" N, 80°15'07" W; thence northwest across the canal to position 4 in position 27°09'30" N, 80°15'09" W; then northeast along the shoreline back to point of origin.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule is effective from 10 a.m. February 11, 2013 through 4 p.m. March 11, 2013.

Dated: January 15, 2013.

**J.B. Pruett,**

*Captain, U.S. Coast Guard, Acting Captain of the Port Miami.*

[FR Doc. 2013-02308 Filed 2-1-13; 8:45 am]

**BILLING CODE 9110-04-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R06-OAR-2012-0435; FRL-9775-2]

**Approval and Promulgation of Implementation Plans; Texas; Beaumont/Port Arthur Ozone Maintenance Plan Revision to Approved Motor Vehicle Emissions Budgets**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the Beaumont/Port Arthur (BPA) 1997 8-hour ozone maintenance air quality State Implementation Plan (SIP) which replaces the previously approved motor vehicle emissions budgets (budgets) with budgets developed using EPA's Motor Vehicle Emissions Simulator (MOVES) 2010a emissions model. The BPA 1997 8-hour ozone maintenance area consists of Hardin, Jefferson, and Orange Counties in Texas.

**DATES:** This final rule is effective on March 6, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-2012-0435. All documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov). Although listed in the index, some information is not publicly available, e.g., Confidential Business Information 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 either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal is also available for public inspection during official business hours, by appointment, at the Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeffrey Riley, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-8542; fax number 214-665-6762; email address [riley.jeffrey@epa.gov](mailto:riley.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, "we," "us," and "our" means EPA.

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- II. What public comments were received?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

**I. What is the background for this action?**

The background for today's action is discussed in detail in our September 19, 2012 proposal (77 FR 58058). In that notice, we proposed to approve a revision to the BPA 1997 8-hour ozone maintenance air quality SIP by replacing the previously approved motor vehicle emissions budgets, developed with EPA's MOBILE 6.2 model, with budgets developed using EPA's more current Motor Vehicle Emissions Simulator (MOVES) 2010a emissions model. At the time of our proposal, Texas had provided for public review and comment of the SIP revision at the state level. Subsequently, the State adopted the revision and submitted it to us on December 10, 2012.

An air quality maintenance plan is required to show that an area will continue to maintain attainment of the applicable standard taking into account projections of future emissions. Our approval means that EPA is finding that Beaumont's ozone air quality maintenance plan still demonstrates that the area will maintain attainment of the 1997 ozone national ambient air quality standard through the year 2021 while taking into account the revised emissions from the MOVES model. The motor vehicle emissions budgets are the amount of emissions from on-road motor vehicles that are consistent with the maintenance plan. Once EPA approves the submitted budgets, they must be used by local, state and Federal agencies in determining whether transportation activities conform to the SIP as required by section 176(c) of the Clean Air Act (CAA) and 40 CFR 93.102.