

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mr. Hal R. Pitts, Fifth Coast Guard District (dpb); telephone (757) 398-6222, email [Hal.R.Pitts@uscg.mil](mailto:Hal.R.Pitts@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Background, Purpose and Legal Basis**

On April 12, 2017, we published a notification in the **Federal Register** entitled, “Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ” announcing a temporary deviation from the regulations, with request for comments (see 82 FR 17562). The purpose of the deviation was to test the newly installed remote operation system of the DELAIR Memorial Railroad Bridge across the Delaware River, mile 104.6, at Pennsauken Township, NJ, owned and operated by Conrail Shared Assets. The installation of the remote operation system did not change the operational schedule of the bridge.<sup>1</sup>

On June 30, 2017, we published a notice of proposed rulemaking (NPRM) entitled, “Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ” (see 82 FR 29800). The original comment period closed on August 18, 2017.

On October 18, 2017, we published a notification in the **Federal Register** entitled, “Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ” announcing a second temporary deviation from the regulations, with request for comments (see 82 FR 48419). This temporary deviation commenced at 8 a.m. on October 21, 2017, and will conclude at 7:59 a.m. on April 19, 2018. This notification included a request for comments and related material to reach the Coast Guard on or before January 15, 2018.<sup>2</sup>

On December 6, 2017, we published a notice of proposed rulemaking; reopening of comment period; entitled “Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ” in the **Federal Register** (see 82 FR 57561). This notification included a request for comments and related material to reach the Coast Guard on or before January 15, 2018.

<sup>1</sup> A full description of the remote operation system is outlined in the aforementioned publication, which can be found at <http://www.regulations.gov>. (See **ADDRESSES** for more information).

<sup>2</sup> Detailed information concerning this second temporary deviation is contained in the Background, Purpose and Legal Basis paragraphs of the aforementioned publication, which can be found at <http://www.regulations.gov>, (see **ADDRESSES** for more information).

On January 22, 2018, we published a notification of temporary deviation from regulations; reopening comment period; entitled “Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ” in the **Federal Register** (see 83 FR 2909). This notification included a request for comments and related material to reach the Coast Guard on or before March 2, 2018.

On February 15, 2018, we published a notice of proposed rulemaking; reopening comment period; entitled “Drawbridge Operation Regulation; Delaware River, Pennsauken Township, NJ” in the **Federal Register** (see 83 FR 6821). This notification included a request for comments and related material to reach the Coast Guard on or before March 2, 2018.

The Coast Guard has reviewed 25 comments posted to the docket, six reports with supporting documentation submitted by the bridge owner during the initial and second temporary deviations, and other information concerning the remote operation system of the DELAIR Memorial Railroad Bridge. Through this review, the Coast Guard has found that further testing and evaluation of the remote operation system of the drawbridge is necessary before making a decision on the proposed regulation. The Coast Guard has issued a third temporary deviation from 8 a.m. on April 19, 2018, through 7:59 a.m. on October 16, 2018, to provide sufficient time for further testing and evaluation of the remote operation system of the DELAIR Memorial Railroad Bridge.

During this temporary deviation, the following changes have been implemented: (1) The on-site bridge tender will be removed from the bridge, (2) qualified personnel will return and operate the bridge within 60 minutes if the remote operation system is considered in a failed condition,<sup>3</sup> and (3) comments concerning the utility and value of the automated identification system (AIS) are requested. This deviation is authorized under 33 CFR 117.35.

**II. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the

<sup>3</sup> The conditions in which the remote operation system will be considered in a failed condition are detailed in the Supplementary Information: III. Discussion of Proposed Rule section of the Notice of Proposed Rulemaking (NPRM), which can be found at: <http://www.regulations.gov>, (see **ADDRESSES** for more information).

outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this notification as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website’s instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: April 19, 2018.

**Jerry R. Barnes,**

*Captain, U.S. Coast Guard, Fifth Coast Guard District.*

[FR Doc. 2018-08763 Filed 4-25-18; 8:45 am]

**BILLING CODE 9110-04-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket Number USCG-2018-0234]

**RIN 1625-AA00**

**Safety Zone; Lake Michigan, Calumet Harbor, Chicago, IL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing two temporary safety zones on Lake Michigan in Calumet Harbor, in Chicago, IL. This action is necessary and intended to ensure safety of life on the navigable waters of the United States immediately prior to, during, and after a lakebed rock removal operation involving explosives. Entry of vessels or persons into these zones is prohibited

unless specifically authorized by the Captain of the Port Lake Michigan.

**DATES:** This rule is effective from midnight on May 1, 2018 through midnight on September 1, 2018.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0234 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this rule, call or email LT John Ramos, Marine Safety Unit Chicago, U.S. Coast Guard; telephone (630) 986-2155, email [D09-DG-MSUChicago-Waterways@uscg.mil](mailto:D09-DG-MSUChicago-Waterways@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR Code of Federal Regulations  
 DHS Department of Homeland Security  
 FR Federal Register  
 NPRM Notice of proposed rulemaking  
 § Section  
 U.S.C. United States Code

**II. Background Information and Regulatory History**

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 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 public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the final details for this event until there was insufficient time remaining before the event to publish a NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with a lakebed rock removal operation from May 1, 2018 through September 1, 2018.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable.

**III. Legal Authority and Need for Rule**

The legal basis for the rule is the Coast Guard's authority to establish safety zones: 33 U.S.C. 1231; 33 CFR 1.05-1, 160.5; Department of Homeland Security Delegation No. 0170.1.

From May 1, 2018 through September 1, 2018, a rock removal operation involving explosives will take place on Lake Michigan in Calumet Harbor, in Chicago, IL. The Captain of the Port Lake Michigan has determined that the lakebed rock removal operation will pose a significant risk to public safety and property. Such hazards include detonation of explosive material and a change in the depth of water for a small period of time.

**IV. Discussion of the Rule**

With the aforementioned hazards in mind, the Captain of the Port Lake Michigan has determined that two temporary safety zones are necessary to ensure the safety of the public during the rock removal operation on Lake Michigan in Calumet Harbor. Safety zone one will be enforced from midnight on May 1, 2018 to through midnight on September 1, 2018. Safety zone one will encompass all waters of Lake Michigan in Chicago, IL, bounded by a line drawn from the Calumet Harbor Entrance South Side Light at 41°44.1348' N, 087°30.3790' W then southwest to 41°43.8568' N, 087°30.6587' W then southeast to 41°43.5801' N, 087°30.2830' W then east to the Calumet Harbor Breakwater South End Light at 41°43.5619' N, 087°29.6016' W (NAD 83). Safety zone two will be enforced intermittently from midnight on May 1, 2018 through midnight on September 1, 2018. A broadcast notice to marines will be issued prior to the start of blasting to notify the public that safety zone two is being enforced. Safety zone two will encompass all waters of Lake Michigan in Chicago, IL, within a 2000 foot radius from 41°43.6665' N, 087°30.3805' W (NAD 83).

Entry into, transiting, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port Lake Michigan, or a designated on-scene representative. The Captain of the Port or a designated on-scene representative may be contacted via VHF Channel 16.

**V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

*A. Regulatory Planning and Review*

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*A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 ("Reducing Regulation and Controlling Regulatory Costs"), directs agencies to reduce regulation and control regulatory costs and provides that "for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process." This rule has not been designated a "significant regulatory action," under Executive order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017).

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. The two safety zones created by this rule will be relatively small, allowing vessel traffic to continue to safely transit while either or both are enforced, and safety zone two will be enforced intermittently only for short periods of time. Under certain conditions, moreover, vessels may still transit through the safety zones when permitted by the Captain of the Port.

*B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 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.

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this temporary rule on 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 on a portion of Lake Michigan in Calumet Harbor from midnight May 1, 2018 through midnight September 1, 2018.

These safety zones will not have a significant economic impact on a substantial number of small entities for the reasons cited in the *Regulatory Planning and Review* section. Additionally, before the enforcement of the zones, we will issue local Broadcast Notice to Mariners and Local Notice to Mariners so vessel owners and operators can plan accordingly.

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** section.

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.

### C. 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).

### D. Federalism and Indian Tribal Governments

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 have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive order 13132.

Also, 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

### E. 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.

### F. 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 (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 two safety zones for a lakebed rock removal operation involving explosives on Lake Michigan in Calumet Harbor, in Chicago, IL. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1, of DHS

Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

### G. 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.

### 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 parts 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; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0234 to read as follows:

#### § 165.T09–2018–0234 Safety Zone; Lake Michigan, Calumet Harbor, Chicago, IL.

(a) *Location.* Safety zone one; all navigable waters of Lake Michigan bounded by a line drawn from the Calumet Harbor Entrance South Side Light at 41°44.1348’ N, 087°30.3790’ W then southwest to 41°43.8568’ N, 087°30.6587’ W then southeast to 41°43.5801’ N, 087°30.2830’ W then east to the Calumet Harbor Breakwater South End Light at 41°43.5619’ N, 087°29.6016’ W (NAD 83). Safety zone two will encompass all navigable waters of Lake Michigan within a 2000 foot radius from 41°43.6665’ N, 087°30.3805’ W (NAD 83).

*Enforcement period.* This rule will be enforced from midnight on May 1, 2018 through midnight on September 1, 2018 for safety zone one. Safety zone two will be enforced intermittently from midnight on May 1, 2018 through midnight on September 1, 2018. Prior to the commencement of blasting operations a broadcast notice to mariners will be issued to notify the

public that safety zone two is being enforced.

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

(2) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or a designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Lake Michigan to act on his or her behalf.

(4) Vessel operators desiring to enter or operate within the safety zones shall contact the Captain of the Port Lake Michigan or an on-scene representative to obtain permission to do so. The Captain of the Port Lake Michigan or an on-scene representative may be contacted via VHF Channel 16 or alternatively they may contact the Captain of the Port Lake Michigan via landline at 414-717-7182. Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the Captain of the Port Lake Michigan, or an on-scene representative.

Dated: April 11, 2018.

**Thomas J. Stuhlfreyer,**

*Captain, U.S. Coast Guard, Captain of the Port, Lake Michigan.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 150121066-5717-02]

**RIN 0648-XG163**

**Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; inseason Angling category retention limit adjustment.

**SUMMARY:** NMFS has determined that the Atlantic bluefin tuna (BFT) daily retention limit that applies to vessels permitted in the Highly Migratory Species (HMS) Angling category and the HMS Charter/Headboat category (when fishing recreationally for BFT) should be adjusted for the remainder of 2018, based on consideration of the regulatory determination criteria regarding inseason adjustments. NMFS is adjusting the Angling category BFT daily retention limit from the default of one school, large school, or small medium BFT to two school BFT and one large school/small medium BFT per vessel per day/trip for private vessels with HMS Angling category permits; and to three school BFT and one large school/small medium BFT per vessel per day/trip for vessels with HMS Charter/Headboat permits when fishing recreationally. These retention limits are effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeted fishing for BFT.

**DATES:** Effective April 26, 2018, through December 31, 2018.

**FOR FURTHER INFORMATION CONTACT:** Sarah McLaughlin or Brad McHale, (978) 281-9260.

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments, and in accordance with implementing

regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

As a method for limiting fishing mortality on juvenile BFT, ICCAT recommends a tolerance limit on the annual harvest of BFT measuring less than 115 centimeters (cm) (45.3 inches) (straight fork length) to no more than 10 percent by weight of a Contracting Party’s total BFT quota. Any overharvest of such tolerance limit from one year must be subtracted from the tolerance limit applicable in the next year or the year after that. The United States implements this provision by limiting the harvest of school BFT (measuring 27 to less than 47 inches curved fork length) as appropriate to not exceed the 10-percent limit.

The currently codified baseline U.S. quota is 1,058.9 metric tons (mt) (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). See § 635.27(a). The currently codified Angling category quota is 195.2 mt (108.4 mt for school BFT, 82.3 mt for large school/small medium BFT, and 4.5 mt for large medium/giant BFT).

The 2018 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2018. The Angling category season opened January 1, 2018, and continues through December 31, 2018. The size classes of BFT are summarized in Table 1. Please note that large school and small medium BFT traditionally have been managed as one size class, as described below, *i.e.*, a limit of one large school/small medium BFT (measuring 47 to less than 73 inches). Currently, the default Angling category daily retention limit of one school, large school, or small medium BFT applies (§ 635.23(b)(2)). This retention limit applies to HMS Angling and to HMS Charter/Headboat category permitted vessels (when fishing recreationally for BFT).

TABLE 1—BFT SIZE CLASSES

Size class	Curved fork length
School .....	27 to less than 47 inches (68.5 to less than 119 cm).
Large school .....	47 to less than 59 inches (119 to less than 150 cm).
Small medium .....	59 to less than 73 inches (150 to less than 185 cm).
Large medium .....	73 to less than 81 inches (185 to less than 206 cm).