

associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has 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 promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for 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 117

Bridges.

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

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Amend § 117.293 by revising the introductory text and paragraph (a) to read as follows:

#### § 117.293 Indian Creek.

The draw of the 63rd Street Bridge across Indian Creek, mile 4.0 at Miami Beach, FL, shall open on signal except that:

(a) Each day from 7 a.m. to 7 p.m., except Federal holidays, the draw need open only on the hour and half-hour;

\* \* \* \* \*

Dated: March 17, 2022.

**Brendan C. McPherson,**

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

[FR Doc. 2022–06288 Filed 3–24–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG–2022–0215]

RIN 1625–AA00

### Safety Zone for Pollution Responders; Neva Strait, Sitka, AK

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for navigable waters within a 100-yard radius of oil spill recovery vessels in Neva Strait. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by pollution response efforts. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Southeast Alaska.

**DATES:** This rule is effective without actual notice from March 25, 2022 twenty-four hours per day until 6 p.m. on March 27, 2022. For the purposes of enforcement, actual notice will be used from noon on March 21, 2022 until March 25, 2022.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2022–0215 in the search box and click “Search.” Next, in the Document Type column, select “Supporting & Related Material.”

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Jesse Collins, Waterways Management Division, U.S. Coast Guard; telephone 907–463–2846, email [Jesse.O.Collins@uscg.mil](mailto:Jesse.O.Collins@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 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 a vessel ran aground, causing a significant oil spill, and immediate action is needed to respond to the potential safety hazards associated with pollution response efforts. It is impracticable to publish an NPRM because we must establish this safety zone by March 21, 2022.

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**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with pollution response efforts in Neva Strait.

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

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Southeast Alaska (COTP) has determined that potential hazards associated with pollution response efforts starting March 21, 2021, will be a safety concern for anyone within a 100-yard radius of oil spill recovery vessels in Neva Strait. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone for the duration of pollution response efforts.

#### IV. Discussion of the Rule

This rule establishes a safety zone effective twenty-four hours per day until 6 p.m. on March 27, 2022. The safety zone will cover all navigable waters within 100 yards of vessels and machinery being used by personnel to respond to a significant oil spill. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters for the duration of pollution response efforts. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

#### 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 protesters.

### 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. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit through the safety zone which would impact a small designated area of Neva Strait. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessel to seek permission to enter the zone.

### 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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 call or email 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.

### 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 Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), 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 a safety zone lasting twenty-four hours per day that will prohibit entry within 100 yards of vessels and machinery being used by personnel to respond to a significant oil spill. It is categorically excluded from further review under paragraph L60(c) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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 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:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T17–0215 to read as follows:

### § 165.T17–0215 Safety Zone for Pollution Responders; Neva Strait, Sitka, AK.

(a) *Location.* The following area is a safety zone: All waters of Neva Strait with a 100-yard radius of oil spill recovery vessels.

(b) *Definitions.* (1) Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Juneau.

(2) As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the COTP Southeast Alaska in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of

this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 907-463-2980 or on Marine Band Radio VHF-FM channel 16 (156.8 MHz). The designated representative on-scene can be contacted on Marine Band Radio VHF-FM channel 16 (156.8 MHz).

(3) Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

Dated: March 21, 2022.

**D.A. Jensen,**

*Captain, U.S. Coast Guard, Captain of the Port Southeast Alaska.*

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**BILLING CODE 9110-04-P**

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Parts 201, 220, 222, 223, and 224

[Docket No. 2021-6]

#### Copyright Claims Board: Initiating of Proceedings and Related Procedures

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Copyright Office is amending its regulations to establish procedures governing the initial stages of a Copyright Claims Board proceeding. The regulations provide requirements regarding filing a claim, the Board's compliance review, service, notice of the claim, the respondent's opt-out election, responses, and counterclaims.

**DATES:** Effective April 25, 2022.

#### FOR FURTHER INFORMATION CONTACT:

Megan Efthimiadis, Assistant to the General Counsel, by email at [meft@copyright.gov](mailto:meft@copyright.gov), or by telephone at 202-707-8350.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Copyright Alternative in Small-Claims Enforcement ("CASE") Act of 2020<sup>1</sup> directs the Copyright Office to establish the Copyright Claims Board ("CCB"), a voluntary forum for parties seeking resolution of certain copyright disputes that have a total monetary value of \$30,000 or less. The CCB is an

alternative forum to federal court and is designed to be accessible to *pro se* individuals and individuals without much formal exposure to copyright.<sup>2</sup> The Office published a notification of inquiry ("NOI") asking for public comments on the CCB's operations and procedures.<sup>3</sup>

Following the NOI, the Office published a notice of proposed rulemaking ("NPRM"), proposing rules governing the initiation of proceedings before the CCB and related procedures.<sup>4</sup> These rules addressed filing a claim, the CCB's review of the claim to ensure that it complies with the relevant statutory requirements and regulations ("compliance review"), service, notice of the claim, the respondent's ability to opt out, the response, and counterclaims.<sup>5</sup>

The Office sought public input concerning its proposals for the initiation of proceedings and related procedures and received 186 responsive comments. The Office addresses these comments along with changes made to the proposed rule below.

## II. Final Rule

### A. Fees

#### 1. Fee for Filing a Claim

The CASE Act provides that the sum total of any filing fees, including the fee to commence a proceeding, may not exceed the cost to file an action in federal district court (currently \$402<sup>6</sup>) but may not be less than \$100.<sup>7</sup> In the NPRM, the Office noted that the CASE Act's Senate Report proposed "that the Office consider a two-tiered fee structure, with an initial fee assessed when the claim is filed and a second fee assessed after the claim becomes active."<sup>8</sup> At that time, the Office declined to institute a two-tiered fee system, under the theory that where a "claimant did not move on to the

second tier, the total filing fees would not reach the statutory floor."<sup>9</sup> Accordingly, a single filing fee of \$100 to commence a proceeding was proposed. However, the Office invited comments on the advisability of a two-tiered fee system and whether the Office has the authority to institute such a system under the CASE Act.

Commenters overwhelmingly supported a two-tiered fee system.<sup>10</sup> They offered many practical arguments, including that an upfront fee of \$100 may be cost-prohibitive for many claimants, especially when respondents subsequently opt out of the proceeding, and that a two-tiered system would increase participation by minimizing the loss to a claimant where a respondent opts out before a proceeding becomes active.<sup>11</sup> Commenters suggested setting the first fee in the range of \$10 to \$55, with many suggesting the first fee should be around \$25.<sup>12</sup> Others did not take a position on a single fee or two-tiered approach, but suggested reducing the filing fee to less than \$100.<sup>13</sup>

<sup>9</sup> *Id.*

<sup>10</sup> *But cf.* Michael Bynum Initial NPRM Comments at 1 (not mentioning the two-tiered vs. single-tier choice, but stating that he was "comfortable" with a \$100 fee and that it was "reasonable").

<sup>11</sup> *See, e.g.,* Copyright Alliance, ACT v App Ass'n, Am. Photographic Artists, Am. Soc'y for Collective Rights Licensing, Am. Soc'y of Media Photographers, The Authors Guild, CreativeFuture, Digital Media Licensing Ass'n, Graphic Artists Guild, Indep. Book Pubs. Ass'n, Music Artists Coalition, Music Creators N. Am., Nat'l Press Photographers Ass'n, N. Am. Nature Photography Ass'n, Prof. Photographers of Am., Recording Academy, Screen Actors Guild-Am. Fed. of Television and Radio Artists, Soc'y of Composers & Lyricists, Songwriters Guild of Am., & Songwriters of N. Am. ("Copyright Alliance et al.") Initial NPRM Comments at 8-11; Am. Intell. Prop. L. Ass'n ("AIPLA") Initial NPRM Comments at 3; The Authors Guild Reply NPRM Comments at 1-2; Mark Reback Initial NPRM Comments at 1; Jay Foster Initial NPRM Comments at 1.

<sup>12</sup> *See, e.g.,* AIPLA Initial NPRM Comments at 3 (\$35-\$55); Authors Guild Reply NPRM Comments at 1-2 (\$25-\$35); Ryan Connors Initial NPRM Comments at 1 (\$25); Ricky Jackson Initial NPRM Comments at 1 (\$25); Sylvia Phipps Initial NPRM Comments at 1 (\$25); Anonymous Reply NPRM Comments at 3 (\$50); Sydney Krantz Initial NPRM Comments at 1 (\$25); Donna Barr Initial NPRM Comments at 1 (\$15); Ritterbin Photography Initial NPRM Comments at 1 (\$25); Lisa Shaftel Initial NPRM Comments at 5 (\$25); Suriya Ahmer Initial NPRM Comments at 1 (\$25); Mark Woodward Reply NPRM Comments at 1 (\$20-\$25); Hans Rupert Initial NPRM Comments at (\$10).

<sup>13</sup> *See, e.g.,* John Long Initial NPRM Comments at 1; 9TH Eye in The Quad Productions Initial NPRM Comments at 1; c, z Initial NPRM Comments at 1; Cherry Wood Initial NPRM Comments at 1; Charlotte Cotton Initial NPRM Comments at 1; Dan Milham Initial NPRM Comments at 1; Gareth Hinds Initial NPRM Comments at 1; K Muldoon Initial NPRM Comments at 1; Bree McCool Photography Initial NPRM Comments at 1; Linda Langford Initial NPRM Comments at 1; Angela Jarman Initial NPRM Comments at 1.

<sup>2</sup> *See, e.g.,* H.R. Rep. No. 116-252, at 18-20 (2019); S. Rep. No. 116-105, at 7-8 (2019).

<sup>3</sup> 86 FR 16156 (Mar. 26, 2021). Comments received in response to the March 26, 2021 NOI are available at <https://www.regulations.gov/document/COLC-2021-0001-0001/comment>.

<sup>4</sup> 86 FR 53897 (Sept. 29, 2021). Comments received in response to the September 29, 2021 NPRM are available at <https://www.regulations.gov/document/COLC-2021-0004/comments>. References to these comments are by party name (abbreviated where appropriate), followed by "Initial NPRM Comments" or "Reply NPRM Comments," as appropriate.

<sup>5</sup> 86 FR 53897.

<sup>6</sup> The statutory fee for filing suit in a federal district court is \$350, 28 U.S.C. 1914(a), and an additional fee of \$52 is charged as an administrative fee by the Judicial Conference of the United States. *Id.*

<sup>7</sup> 17 U.S.C. 1510(c).

<sup>8</sup> 86 FR 53904 (citing S. Rep. No. 116-105, at 4 n.4).

<sup>1</sup> Public Law 116-260, sec. 212, 134 Stat. 1182, 2176 (2020).