

authorization, the Commission has found that the evils to be eliminated by the enactment of Federal Power Act (FPA) section 305(b) are not present because the potential for abuse would be unlikely to result from such interlocks.⁸ Therefore, we will continue to require an officer or director who seeks a new or different interlocking position, or leaves a position, with entities covered by § 45.2 and not subject to the automatic authorization of § 45.9(a) to file supplemental applications and notices of change so that the Commission may review the new or different position to ensure that there continues to be no potential for abuse.

B. Past Grants of Authorization for Interlocks That No Longer Require Commission Authorization

1. Final Rule

7. In Order No. 856, the Commission explained that § 45.2 of the Commission's regulations describes the types of interlocking positions that require Commission authorization, including those between a public utility and entities authorized by law to underwrite or participate in the marketing of public utility securities.⁹ However, in 1999, Congress amended FPA section 305(b)(2) to provide that an applicant for certain interlocking positions is no longer required to obtain Commission authorization to hold such positions.¹⁰ In Order No. 856, consistent with the revision of the underlying statute, the Commission revised § 45.2 of its regulations to add that an applicant for an interlocking position between a public utility and a "bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of public utility securities" ¹¹ does not need Commission authorization when certain circumstances are present; that is, when:

- The person does not participate in any deliberations or decisions of the public utility regarding the selection of the bank, trust company, banking association, or firm to underwrite or participate in the marketing of securities of the public utility, if the person serves as an officer or director of a bank, trust company, banking association, or firm

that is under consideration in the deliberation process;

- the bank, trust company, banking association, or firm of which the person is an officer or director does not engage in the underwriting of, or participate in the marketing of, securities of the public utility of which the person holds the position of officer or director;
- the public utility for which he/she serves or proposes to serve as an officer or director selects underwriters by competitive procedures; or
- the issuance of securities of the public utility for which the person serves or proposes to serve as an officer or director has been approved by all Federal and State regulatory agencies having jurisdiction over the issuance.¹²

2. Request for Rehearing

8. El Paso states that a member of its board of directors sought and received Commission approval for an interlock that was subsequently removed from the Commission's FPA jurisdiction as a result of the Gramm-Leach-Bliley Act. El Paso states that "[t]he presence of this, and other, past grants of case-specific authorizations for interlocks no longer within the Commission's Federal Power Act jurisdiction creates the potential for confusion and uncertainty regarding whether those past applicants are expected to adhere to the requirements of [p]art 45 of the Commission's regulations governing Commission-approved interlocks." El Paso therefore seeks the Commission's grant of clarification in this regard, or, in the alternative, rehearing of Order No. 856.¹³

3. Commission Determination

9. We grant El Paso's request for clarification and clarify that if, as a result of the change in FPA section 305(b)(2) in 1999 and the corresponding changes to § 45.2 of the Commission's regulations made by Order No. 856, an individual no longer holds an interlock that requires Commission authorization, that individual no longer needs to adhere to the requirements of parts 45 and 46 of the Commission's regulations governing Commission approval of such interlocks. We direct those individuals holding interlocking positions that no longer require Commission authorization to make a notice of change filing under § 45.5 of the Commission's regulations, within 45 days of the effective date of this order, informing the Commission that they no longer hold such interlocks.

III. Document Availability

10. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

11. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

12. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502-6652 (toll free at 1-866-208-3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502-8371, TTY (202) 502-8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Issued: July 18, 2019.

Kimberly D. Bose,
Secretary.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2019-0624]

RIN 1625-AA00

Safety Zone; Straits of Mackinac Swim Event, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the Straits of Mackinac within 250-yards of the Mackinac Bridge. The safety zone is needed to protect 400 swimmers participating in a swim across the Mackinac Straits from risks associated with the boating public. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sault Sainte Marie.

⁸ See *Automatic Authorization for Holding Certain Positions that Require Commission Approval Under Section 305(b) of the Federal Power Act*, Order No. 446, 34 FERC 61,168 at 30,129-30,131 (1986).

⁹ 18 CFR 45.2(b)(2).

¹⁰ See Public Law 106-102, sec. 737, 113 Stat. 1338, 1479 (1999) (known as the Gramm-Leach-Bliley Act).

¹¹ 18 CFR 45.2(b)(2).

¹² Order No. 856, 166 FERC ¶ 61,119 at P 6; see also 16 U.S.C. 825d(b)(2).

¹³ El Paso Request for Rehearing at 4-5.

DATES: This rule is effective from 7 a.m. through 11 a.m. on August 11, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2019–0624 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 on this rule, call or email LT Sean Murphy, Waterways Management, Sector Sault Sainte Marie, U.S. Coast Guard; telephone 906–635–3223, email Sean.V.Murphy@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 the final details of the specific marine event and safety zone distance were not finalized within a sufficient time to allow for notice and a subsequent comment period before the commencement of the planned marine event. Delaying this rule to allow for a notice and comment period would be impracticable and contrary to the public interest because it would inhibit the Coast Guard’s ability to protect the 400 swimmers participating in this swim event.

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 contrary to public interest because prompt action is needed to protect the 400 swimmers participating in this event on August 11, 2019.

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 Sault Sainte Marie (COTP) has determined that potential hazards associated with 400 swimmers swimming across the Straits of Mackinac in a swim event will be a safety concern for anyone within 250 yards of the Mackinac Bridge. This rule is needed to protect event participants and support vessels during the event.

IV. Discussion of the Rule

This rule establishes a safety zone from 7 a.m. until 11 a.m. on August 11, 2019. The safety zone will cover all navigable waters within 250 yards of the Mackinac Bridge. The duration of the zone is intended to protect event swimmers and support vessels during the marine event. 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 protestors.

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 13771 directs agencies to control regulatory costs through a budgeting process. 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), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, duration, and location of the safety zone. Vessel traffic may request permission to transit the zone from the designated representative of the Captain of the Port, who may escort the vessel across the Safety Zone when there is no risk to the event participants. The field of swimmers will not spread across the entirety of the waterway; thus, there will be opportunity for a designated representative of the Captain of the Port to escort vessels requesting to transit the

zone. 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 vessels 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 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 Directive 023–01 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 250

yard safety zone around the Mackinac Bridge. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

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 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. 0170.1.

- 2. Add § 165.T09–0624 to read as follows:

§ 165.T09–0624 Safety Zone; Straits of Mackinac Swim Event, MI.

(a) *Location.* The following area is a safety zone: All navigable waters, from top to bottom, within 250 yards of the Mackinac Bridge in the Straits of Mackinac.

(b) *Effective and enforcement period.* This section will be enforced from 7 a.m. to 11 a.m. on August 11, 2019.

(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, hail the COTP's representative on an appropriate VHF channel. 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: July 22, 2019.

P.S. Nelson,

Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2019–0625]

Safety Zones; Recurring Safety Zones in Captain of the Port Sault Sainte Marie Zone for Events Beginning in Late July 2019

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce established safety zones for maritime events starting in late July 2019 to provide for the safety of life on navigable waterways. Our regulation for safety zones within the Captain of the Port Sault Sainte Marie Zone identifies the regulated area for these safety zones. During the enforcement periods, vessels must stay out of the established safety zone and may only enter with permission from the designated representative of the Captain of the Port Sault Sainte Marie.

DATES: The regulations in 33 CFR 165.918 will be enforced for the safety zones identified in Table 1 of the **SUPPLEMENTARY INFORMATION** section of this document for the dates and times specified.

FOR FURTHER INFORMATION CONTACT: If you have questions about this publication, call or email LT Sean Murphy, Waterways Management, Coast Guard Sector Sault Sainte Marie, U.S. Coast Guard; telephone 906–635–3223, email Sean.V.Murphy@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones in 33 CFR 165.918 as per the time, dates, and locations in Table 1.