

request for access to CEII. If it is determined that information is not CEII or that a requester should be granted access to CEII, the applicant will be directed to make the information available to the requester.

(4) Nothing in this section shall be construed to prohibit any persons from voluntarily reaching arrangements or agreements calling for the disclosure of CEII.

■ 13. In § 157.14, paragraph (a) introductory text is amended by adding the following sentence at the end, to read as follows:

**§ 157.14 Exhibits.**

(a) *To be attached to each application.* \* \* \* If this section requires an applicant to reveal Critical Energy Infrastructure Information (CEII), as defined by § 388.113(c) of this chapter, to any person, the applicant shall follow the procedures set out in § 157.10(d).

\* \* \* \* \*

■ 14. In § 157.16, the introductory text is amended by adding the following sentence at the end to read as follows:

**§ 157.16 Exhibits relating to acquisitions.**

\* \* \* If this section requires an applicant to reveal Critical Energy Infrastructure Information (CEII), as defined by § 388.113(c) of this chapter, to any person, the applicant shall follow the procedures set out in § 157.10(d).

\* \* \* \* \*

■ 15. Section 157.22 is amended by adding paragraph (e)(9) to read as follows:

**§ 157.22 Collaborative procedures for applications for certificates of public convenience and necessity and for orders permitting and approving abandonment.**

\* \* \* \* \*

(e) \* \* \*

(9) If paragraphs (e)(3) or (e)(4) of this section require an applicant to reveal Critical Energy Infrastructure Information (CEII), as defined by § 388.113(c) of this chapter, to any person, the applicant shall follow the procedures set out in § 157.10(d).

\* \* \* \* \*

■ 16. Section 157.203 is amended by adding paragraph (d)(4) to read as follows:

**§ 157.203 Blanket certification.**

\* \* \* \* \*

(d) *Landowner notification.* \* \* \*

(4) If paragraphs (d)(1) or (d)(2) of this section require an applicant to reveal Critical Energy Infrastructure Information (CEII), as defined by § 388.113(c) of this chapter, to any person, the applicant shall follow the procedures set out in § 157.10(d).

**Note:** The following appendix will not be published in the Code of Federal Regulations.

**Appendix—List of Commenters**

American Public Power Association and  
Transmission Access Policy Study Group  
Bonneville Power Administration  
Consumers Energy Company  
Interstate Natural Gas Association of America  
ISO New England  
Mid-American Energy Company  
National Hydropower Association  
Northern Natural Gas  
PJM Interconnection, L.L.C.  
Southern California Edison  
Southwest Transmission Dependent Utility Group  
United States Department of the Interior

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**BILLING CODE 6717-01-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD09-03-265]

**RIN 1625-AA97**

**Safety Zone; Motor Vessel FAIRLANE, Port Washington, WI**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone around the anchored motor vessel FAIRLANE while she transfers equipment to a barge in the vicinity of Port Washington, WI. The rule is necessary to prevent vessels from transiting too close to the M/V FAIRLANE and causing wakes that may hinder the safe transfer of equipment from the ship to the barge. This rule is intended to restrict vessel traffic from a portion of Lake Michigan.

**DATES:** This rule is effective from 12:01 a.m. (CST) on September 5, 2003 until 11:59 p.m. (CST) on September 15, 2003.

**ADDRESSES:** Comments on this rule may be addressed to Commanding Officer, U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. (CST) and 3:30 p.m. (CST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Marine Science Technician Michael Schmidtke, Marine Safety Office Milwaukee, (414) 747-7155.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of those working on the M/V FAIRLANE, as well as other workers in the area, while extremely heavy machinery is being unloaded. This rule also ensures that any interested spectators do not accidentally place themselves in danger should any problems occur. As such, immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

**Background and Purpose**

This Safety Zone is established to safeguard the vessel and the public while the M/V FAIRLANE is unloading heavy equipment and machinery in the vicinity of Port Washington, WI. The size of the zone was determined by the necessities of safe navigation in the Captain of the Port zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone is effective from 12:01 a.m. (CST) on September 5, 2003 until 11:59 p.m. (CST) on September 15, 2003. This rule will be enforced when the motor vessel FAIRLANE is in the vicinity of Port Washington conducting transfer operations on Lake Michigan.

**Discussion of Rule**

The Coast Guard will implement a safety zone around the motor vessel FAIRLANE while anchored in the vicinity of Port Washington, WI. Vessels are not to come within 100 yards of the motor vessel FAIRLANE. The purpose of the safety zone is to prevent vessels from transiting too close to the M/V FAIRLANE and causing wakes that may hinder the safe transfer of equipment from the ship to the barge. In addition, the Coast Guard will notify the public, in advance, by way of Ninth Coast Guard District Local Notice to Mariners, marine information broadcasts, and for those who request it from Marine Safety Office Milwaukee, by facsimile (fax).

All persons and vessels shall comply with the instructions of the Captain of

the Port Milwaukee or his designated on-scene representative. Entry into, transiting through, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on-scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.

#### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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: the owners or operators of vessels intending to transit in the vicinity of the motor vessel FAIRLANE, while conducting transfer operations in the vicinity of Port Washington on Lake Michigan, from 12:01 a.m. (CST) on September 5, 2003 until 11:59 p.m. (CST) on September 15, 2003.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be enforced to safeguard the navigation of the boating public and the transfer operation of the FAIRLANE while the vessel is conducting transfer operations

on Lake Michigan. In addition, commercial vessels transiting the area can transit around the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on-scene representative.

#### 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. 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 Marine Safety Office Milwaukee. (See ADDRESSES.)

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).

#### 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 or more in any one year.

Though this proposed rule would 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 effect 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 concern 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 proposed 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and

have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2. of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g) of the Commandant Instruction M16475.1D, from further environmental documentation.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–265 is added to read as follows:

##### § 165.T09–265 Safety Zone; Motor Vessel FAIRLANE, Port Washington, WI.

(a) *Location.* The following area is designated a safety zone: all waters of Lake Michigan within a 100 yard radius of the motor vessel FAIRLANE while the vessel is conducting transfer operations at anchor in the vicinity of Port Washington, WI.

(b) *Effective period.* This section is effective from 12:01 a.m. (CST) on September 5, 2003 until 11:59 p.m. (CST) on September 15, 2003. This rule will be enforced when the FAIRLANE is conducting transfer operations at anchor in Lake Michigan in the vicinity of Port Washington, WI.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Milwaukee or the designated on-scene representative. Coast Guard patrol personnel include commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) This safety zone should not adversely affect shipping. However, commercial vessels may request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-

by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: August 22, 2003.

**H.M. Hamilton,**

*Commander, U.S. Coast Guard, Captain of the Port Milwaukee.*

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**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 165

[CGD05–03–122]

RIN 1625–AA00

##### Safety Zone; Patapsco River, Northwest and Inner Harbors, Baltimore, MD

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Port of Baltimore, Maryland for the USS CONSTELLATION. This action is necessary to provide for the safety of life on navigable waters during the dead ship tow of the vessel from its mooring, to the Patapsco River, and return. This action will restrict vessel traffic in portions of the Inner Harbor, the Northwest Harbor, and the Patapsco River.

**DATES:** This rule is effective from 3:30 p.m. to 7:30 p.m. local time on September 5, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05–03–122 and are available for inspection or copying at Commander, U.S. Coast Guard Activities, 2401 Hawkins Point Road, Building 70, Port Safety, Security and Waterways Management Branch, Baltimore, Maryland, 21226–1791, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ron Houck, at Coast Guard Activities Baltimore, Port Safety, Security and Waterways Management Branch, at telephone number (410) 576–2674 or (410) 576–2693.

##### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this

regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing an NPRM is impracticable due to the unique nature of the rule and its short duration. The USS CONSTELLATION will be towed “dead ship,” which means that the vessel will be underway without the benefit of mechanical or sail propulsion. However, it is imperative that there be a clear transit route and a safe buffer zone around the USS CONSTELLATION and the vessels towing her. 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**. The Coast Guard expects a large spectator fleet. For safety concerns, it is in the public interest to have a safety zone in place for the event, since immediate action is needed to protect mariners against potential hazards associated with the turn-around of the USS CONSTELLATION.

##### Background and Purpose

The USS CONSTELLATION Foundation, Inc. is sponsoring its “turn-around” of the historic sloop-of-war USS CONSTELLATION in Baltimore, Maryland. The event is part of the ongoing maintenance and care of the ship, making sure that it weathers evenly on both sides. Planned events include the “dead ship” tow of the USS CONSTELLATION and an onboard salute with navy pattern cannon while off Fort McHenry National Monument and Historic Site.

The Coast Guard anticipates a large recreational boating fleet during this event. Operators should expect significant vessel congestion along the planned route.

The purpose of this rule is to promote maritime safety and protect participants and the boating public in the Port of Baltimore immediately prior to, during, and after the scheduled event. The rule will provide for a clear transit route for the participating vessels, and provide a safety buffer around the participating vessels while they are in transit. The rule will impact the movement of all vessels operating in the specified areas of the Port of Baltimore.

Interference with normal port operations will be kept to the minimum considered necessary to ensure the safety of life on the navigable waters immediately before, during, and after the scheduled event.

##### Discussion of Rule

The historic sloop-of-war USS CONSTELLATION is scheduled to conduct a “turn-around” on September 5, 2003. The USS CONSTELLATION is