

Captain of the Port St. Petersburg by telephone at (727) 824-7506, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port St. Petersburg or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port St. Petersburg or a designated representative.

(d) *Enforcement period.* This section will be enforced daily from 6 a.m. until 10 p.m., on February 25, 2022, through February 27, 2022.

Dated: February 15, 2022.

**Matthew A. Thompson,**

*Captain, U.S. Coast Guard, Captain of the Port Saint Petersburg.*

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**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2022-0094]

RIN 1625-AA00

#### Safety Zone; Atlantic Ocean, Cape Lookout, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of the Atlantic Ocean near Cape Lookout, North Carolina. This temporary safety zone restricts vessel traffic in a portion of the Atlantic Ocean while crews continue to search a plane crash area. This action restricts vessel traffic to protect mariners, vessels, and dive crews from the hazards associated with the work or surveying a plane crash site. Entry of vessels or persons into this safety zone is prohibited unless specifically authorized by the Captain of the Port (COTP) North Carolina or a designated representative.

**DATES:** This rule is effective without actual notice from February 22, 2022, until March 1, 2022. For the purposes of enforcement, actual notice will be used from February 15, 2022, until February 22, 2022.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0094 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 Petty Officer Ken Farah, Waterways Management Division, U.S. Coast Guard; telephone 910-772-2221, email [ncmarineevents@uscg.mil](mailto:ncmarineevents@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 it would be impracticable and contrary to the public interest. The Coast Guard was unable to publish an NPRM and hold a reasonable comment period for this rulemaking due to the emergent nature of the recovery operations and required publication of this rule. Immediate action is needed to protect persons and vessels from the hazards associated with carrying out operations to recover the downed aircraft and survey the area for debris. It is impracticable and contrary to the public interest to publish an NPRM because a final rule needs to be in place by February 15, 2022.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest for the reasons discussed above, immediate action is needed to protect persons, property, vessels, and the marine environment on the navigable waters of the Atlantic Ocean near Cape Lookout in North Carolina.

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

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The

Captain of the Port North Carolina (COTP) has determined potential hazards associated with operations during recovery work on the site of a plane crash. Work on this site is starting February 15, 2022, and ongoing. This work is a safety concern for anyone transiting the designated recovery area of the Atlantic Ocean and Cape Lookout, NC, because the site work will involve persons in the water. This rule is necessary to protect persons, vessels, and participants from the hazards associated with the recovery efforts.

##### IV. Discussion of the Rule

This rule establishes a safety zone from on February 15, 2022, through March 1, 2022. The safety zone will be enforced from 7 a.m. through 7 p.m. each day the rule is in effect. The safety zone will include all navigable waters of the Atlantic Ocean within a 1,000 yard radius of position 34-48.81 N by 076-17.23 W. The duration of this zone is intended to protect persons, property, vessels, and the marine environment on the navigable waters of the Atlantic Ocean during the recovery efforts of at downed aircraft. No vessel or person will be permitted to enter the safety zone unless specifically authorized by the Captain of the Port North Carolina 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. 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 emergent nature of this event and limited impact to the public. The safety zone is in an area where there is ample space to pass around this area. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule will allow vessels to seek permission to pass through the zone if necessary.

### 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 that will prohibit entry within 1,000 yards of vessels and machinery being used by personnel to survey and recover an aircraft crash site at position 34–48.81 N by 076–17.23 W. It is categorically excluded from further review under paragraph L[60d] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

### 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.T05–0094

### § 165.T05–0094 Safety Zone; Atlantic Ocean, Cape Lookout, NC.

(a) *Location.* The following area is a safety zone on all navigable waters within a 1,000 yard radius of position 34–48.81 N by 076–17.23 W on the Atlantic Ocean near Cape Lookout, North Carolina.

(b) *Definitions.* As used in this section—

*Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port North Carolina (COTP) for the enforcement of the safety zone.

(c) *Regulations.* (1) The general regulations governing safety zones in § 165.23 apply to the area described in paragraph (a) of this section.

(2) Entry into or remaining in this safety zone is prohibited unless authorized by the COTP or the COTP’s designated representative. Unless permission to remain in the zone has been granted by the COTP or the COTP’s designated representative, a vessel within this safety zone must immediately depart the zone when this section becomes effective.

(3) The Captain of the Port, North Carolina can be reached through the Coast Guard Sector North Carolina Command Duty Officer, Wilmington, North Carolina, at telephone number 910–343–3882.

(4) The Coast Guard and designated security vessels enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 MHz) and channel 16 (156.8 MHz).

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 7 a.m. through 7 p.m. each day from February 15, 2022, through March 1, 2022.

Dated: February 15, 2022.

**Matthew J. Baer,**

*Captain, U.S. Coast Guard, Captain of the Port North Carolina.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2022-0002; FRL-9413-01-R4]

### Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to State Implementation Plan; Correction

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

**ACTION:** Final rule; correction and clarification.

**SUMMARY:** The Environmental Protection Agency (EPA) is correcting statements contained in a July 11, 2002, **Federal Register** notice of direct final rulemaking approving changes to the Georgia State Implementation Plan (SIP). Specifically, EPA stated that it was approving a change to the public notice requirements in Georgia's SIP for federally-enforceable operating permits. However, this change was never effective at the state level and, therefore, was never incorporated into the SIP. EPA is publishing this correction notice to eliminate any potential confusion regarding the public notice requirements in Georgia's SIP for these permits.

**DATES:** Effective February 22, 2022.

**ADDRESSES:** EPA has established a docket for this notice of correction under Docket Identification No. EPA-R04-OAR-2022-0002 to provide electronic access to the July 11, 2002, submittal. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. Although listed in the index, some information may not be publicly available, *i.e.*, 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 Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. Mr. Akers can be reached via telephone at 404-562-9089 or via electronic mail at [akers.brad@epa.gov](mailto:akers.brad@epa.gov).

**SUPPLEMENTARY INFORMATION:** Section 110 of the Clean Air Act (CAA) requires states to develop and submit to EPA a SIP to ensure that state air quality meets the National Ambient Air Quality Standards (NAAQS). These NAAQS currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each state has a SIP containing the control measures and strategies used to attain and maintain the NAAQS. The SIP is extensive, containing such elements as air pollution control and permitting regulations, emission inventories, attainment demonstrations, and enforcement mechanisms. Each state must formally adopt the elements it proposes to include in its SIP after the public has had an opportunity to comment on them and must then submit the proposed SIP revisions to EPA. If the revisions meet all relevant CAA requirements, EPA must approve them through notice and comment rulemaking and incorporate the elements into the SIP at 40 Code of Federal Regulations part 52—"Approval and Promulgation of Implementation Plans."<sup>1</sup>

EPA incorporated Georgia's "Operating (SIP) Permits" rule—Ga. Comp. R. & Regs. 391-3-1-.03, *Permits*, at Section (2) (hereinafter Rule 391-3-1-.03(2))—into the Georgia SIP on August 30, 1995. See 60 FR 45048. Paragraph (i) of this rule requires the State to notify EPA and the public prior to issuing any federally-enforceable

operating permit and provide the opportunity to comment on the draft permit. Georgia has not revised this public notice provision since its initial incorporation into the SIP.<sup>2</sup>

On July 11, 2002 (67 FR 45909), EPA approved numerous changes to the Georgia SIP through a direct final rule. This rule addressed regulatory changes transmitted to EPA on December 6, 1999, March 21, 2000, January 4, 2001, August 21, 2001, and December 28, 2001, by the State of Georgia, through the Georgia Department of Natural Resources' Environmental Protection Division (also known as GA EPD).

GA EPD's March 21, 2000, submittal contained several revisions to Rule 391-3-1-.03 and information indicating that it included changes to Rule 391-3-1-.03(2) for EPA approval. Specifically, the submittal contained a strikeout/underline draft version of Rule 391-3-1-.03(2)(i), that purported to eliminate the phrase "on the draft permit." In the preamble of the July 11, 2002, notice of direct final rulemaking, EPA indicated it was removing this phrase, stating that "Rule 391-3-1-.03(2)(i) is being amended to allow the public and EPA notification and review of a permit application to begin upon receipt of a permit application rather than upon completion of a draft permit."<sup>3 4</sup> See 67 FR 45909 at 45910. However, the submittal also included a final version of the rule that retained the phrase "on the draft permit" and a hearing record showing that the draft version of Rule 391-3-1-.03(2)(i) (eliminating the phrase "on the draft permit"), was never adopted by the Georgia Board of Natural Resources, and, therefore, was never state effective.

The direct final rule incorporated the final version of Rule 391-3-1-.03 into the SIP at 40 CFR 52.570(c). Because the draft change to the public notice requirement in Rule 391-3-1-.03(2)(i) (eliminating the phrase "on the draft permit"), was never state effective, EPA could not have incorporated it into the SIP. Therefore, EPA did not approve any change to 391-3-1-.03(2) in the July 11,

<sup>2</sup> The SIP-approved version of Rule 391-3-1-.03(2) states "Prior to the issuance of any federally enforceable operating permit, EPA and the public will be notified and given a chance for comment on the draft permit."

<sup>3</sup> EPA erroneously made the draft change to Rule 391-3-1-.03(2)(i) in its online Georgia SIP compilation at <https://www.epa.gov/sips-ga>. EPA will correct this error in the SIP compilation at the time of publication or shortly thereafter.

<sup>4</sup> The SIP table at 40 CFR 52.570(c) contains an error in the entry for Rule 391-3-1-.03(2) indicating a December 26, 2001, state effective date. EPA intends to correct this table entry to reflect a state effective date of August 17, 1994, in the next routine update to the materials incorporated by reference into the Georgia SIP.

<sup>1</sup> Georgia's SIP is set forth at 40 CFR 52.570.