

of the Port Duluth or his on-scene representative.

Dated: March 31, 2009.

**M.P. Lebsack,**

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

[FR Doc. E9-8911 Filed 4-17-09; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0217]

RIN 1625-AA00

#### Safety Zone; Jordan Bridge Demolition, Elizabeth River, Chesapeake and Portsmouth, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the Elizabeth River in the vicinity of Chesapeake and Portsmouth, VA during demolition of the Jordan Bridge. This action is intended to protect mariners and public property on the Elizabeth River from the hazards associated with bridge demolition.

**DATES:** This rule is effective from May 3, 2009 through May 6, 2009, with contingency dates of May 18, 2009 through May 21, 2009 in the event of adverse weather conditions.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0217 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0217 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at two locations: the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail LT Tiffany Duffy, Coast Guard; telephone 757-668-5580, e-mail [Tiffany.A.Duffy@uscg.mil](mailto:Tiffany.A.Duffy@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

The Coast Guard is issuing this temporary final 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 any delay encountered in this regulation’s effective date by publishing a NPRM would be contrary to public interest since immediate action is needed to provide for the safety of life and property on navigable waters. Specifically, since debris from a bridge being demolished could lead to severe injury, fatalities and/or destruction of public property, immediate action is needed to protect, to the extent practicable, the public’s safety.

For the same reason, 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 would be contrary to the public interest.

##### Background and Purpose

Coast Guard Sector Hampton Roads has been notified by Delta Demolition Group that construction operations to demolish the Jordan Bridge lift span over the Elizabeth River will commence on May 3, 2009. Due to the need to protect mariners and spectators from the hazards associated with this project, access to the Elizabeth River between the Belt Line Railroad Bridge and the Norfolk and Western Portsmouth Chesapeake Railroad Bridge will be temporarily restricted.

##### Discussion of Rule

The Coast Guard is establishing a temporary safety zone on specified waters of the Elizabeth River in the vicinity of Chesapeake and Portsmouth, VA. This safety zone will encompass all navigable waters of the Elizabeth River between the Belt Line Railroad Bridge at approximate position 36°48’42” N/ 76°17’25” W (NAD 1983) and the Norfolk and Western Portsmouth Chesapeake Railroad Bridge at approximate position 36°47’49” N/ 76°17’34” W (NAD 1983). This regulated area will be established in the interest

of public safety during the removal of the Jordan Bridge lift span and will be enforced from May 3, 2009 through May 6, 2009, with contingency dates of May 18, 2009 through May 21, 2009 in the event of adverse weather conditions. Access to the area within the safety zone will be restricted during the specified date and times or until swing span removal is complete, whichever is sooner. Except for participants and vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the regulated area.

##### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### Regulatory Planning and Review

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. Although this proposed regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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, some of which may be small entities: The owners or operators of vessels intending to transit a portion of the Elizabeth River during the time this regulation is in effect. Since the impact

of this rule is expected to be minimal, 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 safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: The safety zone will only be in place for a limited duration. Before the effective period, maritime advisories will be issued allowing mariners to adjust their plans accordingly. Although the safety zone will apply to the entire width of the bridge, traffic will be allowed to pass through the zone with the permission of the Captain of the Port or his 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.

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.

#### 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 rule will 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 create 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 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a safety zone around the removal of a bridge lift span. This zone introduces no additional hazards to the environment, but closes the zone to the maritime public to protect life and property during hazardous conditions. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects 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:** 33 U.S.C. 1226, 1231; 46 U.S.C. 3306, 3703 and Chapter 701; 50 U.S.C. 191,

195; 33 CFR 1.05–1, 6.04–1, 6.04–6; 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0217 to read as follows:

**§ 165.T05–0217 Safety Zone; Jordan Bridge Lift Span Demolition, Elizabeth River, Chesapeake and Portsmouth, VA.**

(a) *Regulated Area.* The following area is a safety zone: All waters of the Elizabeth River, located between the Belt Line Railroad Bridge at approximate position 36°48'42" N/76°17'25" W (NAD 1983) and the Norfolk and Western Portsmouth Chesapeake Railroad Bridge at approximate position 36°47'49" N/76°17'34" W (NAD 1983), in the vicinity of Chesapeake and Portsmouth, VA.

(b) *Definition:* For the purposes of this part, Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port Hampton Roads, Virginia to act on his behalf.

(c) *Regulations:* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone Number (757) 668–5555.

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

(d) *Enforcement Period:* This regulation will be enforced from May 3, 2009 through May 6, 2009, with contingency dates of May 18, 2009 through May 21, 2009 in the event of adverse weather conditions.

Dated: April 3, 2009.

**Patrick B. Trapp,**

*Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

**RIN 2900—AN10**

### Post-9/11 GI Bill

#### *Correction*

In rule document E9–7052 beginning on page 14654 in the issue of Tuesday, March 31, 2009, make the following corrections:

#### **§ 21.4200 [Corrected]**

1. On page 14667, in the second column, in § 21.4200, under amendatory instruction 21a., “title10, U.S.C.” should read “title 10, U.S.C.”.

#### **§ 21.9650 [Corrected]**

2. On page 14687, in the first column, in § 21.9650(a)(i), “\$50.00 per month” should read “\$950.00 per month”.

3. On the same page, in the second column, in § 21.9650(b)(2)(i), “\$50.00 per month” should read “\$950.00 per month”.

[FR Doc. Z9–7052 Filed 4–17–09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 071004577–8124–02]**

**RIN 0648–X025**

### **Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Closure of the Eastern U.S./Canada Management Area**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS announces a temporary closure of the Eastern U.S./Canada Area to limited access NE multispecies days-at-sea (DAS) vessels. Based upon Vessel Monitoring System (VMS) reports and other available information, the Administrator, Northeast Region, NMFS (Regional Administrator) has projected that 100 percent of the total allowable catch (TAC) of Georges Bank (GB) cod allocated to be harvested from the Eastern U.S./Canada Area would be harvested in the next few days, if current catch rates continue. This action

is being taken to prevent the 2008 TAC for GB cod in the Eastern U.S./Canada Area from being exceeded during the 2008 fishing year in accordance with the regulations implemented under Amendment 13 to the NE Multispecies Fishery Management Plan (FMP) and the Magnuson–Stevens Fishery Conservation and Management Act.

**DATES:** The temporary closure of the Eastern U.S./Canada Area to all limited access NE multispecies DAS vessels is effective 0001 hr April 16, 2009, through 2400 hr local time, April 30, 2009.

#### **FOR FURTHER INFORMATION CONTACT:**

Douglas Potts, Fishery Policy Analyst, (978) 281–9341, fax (978) 281–9135.

#### **SUPPLEMENTARY INFORMATION:**

Regulations governing the GB cod landing limit within the Eastern U.S./Canada Area are found at (§ 648.85(a)(3)(iv)(A) and (D)). The regulations authorize vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies DAS to fish in the U.S./Canada Management Area, as defined at (§ 648.85(a)(1), under specific conditions. The TAC for Eastern GB cod for the 2008 fishing year (May 1, 2008–April 30, 2009) was set at 667 mt (73 FR 16572, March 28, 2008), a 35–percent increase from the TAC for the 2007 fishing year.

The regulations at (§ 648.85(a)(3)(iv)(D) authorize the Administrator, Northeast (NE) Region, NMFS (Regional Administrator), to increase or decrease the trip limits in the U.S./Canada Management Area to prevent over-harvesting or under-harvesting the TAC allocation. The default landing limit of Eastern GB cod for NE multispecies DAS vessels fishing in the Eastern U.S./Canada Area is 500 lb (226.8 kg) per DAS, or any part of a DAS, up to 5,000 lb (2,268 kg) per trip. NMFS published a temporary rule on December 23, 2008 (73 FR 78659), increasing the landing limit for Eastern GB cod to 1,000 lb (453.6 kg) per DAS, or any part of a DAS, up to 10,000 lb (4,535.9 kg) per trip. The limit was subsequently decreased on March 9, 2009, to 500 lb per DAS, or any part of a DAS, up to 5,000 lb per trip, as the TAC was expected to be achieved by early April, prior to the conclusion of the 2008 fishing year.

Based upon VMS daily catch reports and other available information, the 2008 TAC is projected to be achieved if the Eastern U.S./Canada Area is closed immediately. Therefore, to ensure that the TAC for GB cod will not be exceeded, the Eastern U.S./Canada Area is closed to all limited access NE