

figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation. Paragraph (32)(e) excludes the promulgation of operating regulations or procedures for drawbridges from the environmental documentation requirements of NEPA. Since this rule will alter the normal operating conditions of the drawbridges, it falls within this exclusion. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulations

■ 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; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of P.L. 102–587, 106 Stat. 5039.

■ 2. In § 117.458, paragraph (a) is revised to read as follows:

#### § 117.458 Inner Harbor Navigation Canal, New Orleans.

(a) The draws of the SR 46 (St. Claude Avenue) bridge, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), the SR 39 (Judge Seeber/Claiborne Avenue) bridge, mile 0.9 (GIWW mile 6.7 East of Harvey Lock), and the Florida Avenue bridge, mile 1.7 (GIWW mile 7.5 East of Harvey Lock), shall open on signal; except that, from 6:30 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:45 p.m., Monday through Friday, except federal holidays, the draws need not open for the passage of vessels. The draws shall open at any time for a vessel in distress.

\* \* \* \* \*

Dated: December 5, 2003.

**R.F. Duncan,**

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

[FR Doc. 03–30905 Filed 12–12–03; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05–03–199]

RIN 1625–AA00

#### Safety Zone; Lockwood Folly Inlet, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone in the Atlantic Intra-Coastal Waterway (AICW) in the vicinity of Lockwood Folly Inlet, NC. This action is necessary to ensure public safety. This rule prohibits vessels with a draft greater than 3 feet from entering the safety zone unless specifically exempt under the provisions in this rule or granted specific permission from the Coast Guard Captain of the Port Wilmington.

**DATES:** This rule is effective from 3:30 p.m. on December 3, 2003 through 3:30 p.m. May 8, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05–03–199 and are available for inspection or copying at Coast Guard Marine Safety Office Wilmington, 721 Medical Center Drive, Wilmington, NC 28401 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LCDR Chuck Roskam, Chief, Port Operations, USCG Marine Safety Office Wilmington, telephone number (910) 772–2207.

#### 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 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**. Publishing an NPRM and delaying the effective date of this rule would be contrary to the public interest. Immediate action is necessary to minimize potential danger to the public and is required to ensure the safety of persons and vessels operating on the AICW in this area during the period specified.

The shoaling in the AICW at Lockwood Folly Inlet poses a unique and serious risk to any vessel transiting this area with a draft greater than 3 feet. Any grounding of a vessel poses a

significant risk of injury to people onboard these vessels. There have been and continue to be groundings in this location and prompt action is required to prevent these incidents from continuing.

#### Background and Purpose

An area of severe shoaling has been identified in the Atlantic Intracoastal Waterway in the vicinity of Lockwood Folly Inlet and a survey of this area indicates a water depth of 3.5 feet at mean low water. The Captain of the Port is restricting entry of vessels with a draft of greater than 3 feet from transiting this safety zone until dredging has been completed.

#### Discussion of Rule

The safety zone will cover the AICW extending from Cape Fear River-Little River Buoy 47 (LLNR 40225) to Cape Fear River-Little River Buoy 48 (LLNR 40235). This safety zone will be in effect to ensure the safety of persons and vessels operating on the AICW in this area. Entry into this safety zone by vessels with a draft greater than 3 feet is prohibited at or near low tide unless authorized by the Captain of the Port or his or her designated representative.

#### 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). The operational restrictions of the safety zone are tailored to provide the maximum safety of mariners and vessels. Further, this Safety Zone is temporary in nature and vessels and persons can appeal to the Captain of the Port for a waiver of the requirements of the Safety Zone. Any hardships experienced by persons or vessels are outweighed by the interest in protecting the public, vessels, and vessel crews.

#### 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 or anchor in a portion of the AICW from 3:30 p.m. on December 03, 2003 through 3:30 p.m. May 8, 2004. The Coast Guard expects minimal economic impact on a substantial number of small entities due to this rule because little commercial traffic transits this area of the AICW and vessels with compelling interests that outweigh the port's safety needs may be granted waivers from the requirements of the Safety Zone.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small Entities requesting guidance or exemption from this rule may contact LCDR Chuck Roskam, Chief, Port Operations, USCG Marine Safety Office Wilmington at (910) 772-2207.

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 rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not affect 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.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, 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 Instruction, from further environmental documentation. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under ADDRESSES.

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

Harbors, Marine Safety, Navigation (water), Reporting and record keeping 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. 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. Add temporary § 165.T05-199 to read as follows:

#### § 165.T05-199 Safety Zone: Atlantic Intra-Coastal Waterway, Lockwood Folly Inlet, NC.

(a) *Location.* The following area is a safety zone: the Atlantic Intra-Coastal Waterway from Cape Fear River-Little River Buoy 47 (LLNR 40225) west to Cape Fear River-Little River Buoy 48 (LLNR 40235). These points are found on Nautical Chart 11534-Intracoastal Waterway, Myrtle Grove Sound and Cape Fear River to Casino Creek.

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

*Captain of the Port* means the Commanding Officer of the Marine Safety Office Wilmington, North Carolina, or any Coast Guard Commissioned, Warrant, or Petty Officer who has been authorized by the Captain of the Port to act on his or her behalf.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry of vessels with a draft

greater than 3 feet into the safety zone in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port. Movement of vessels with a draft greater than 3 feet within the safety zone will be prohibited except as specifically authorized by the Captain of the Port. The general requirements of § 165.23 also apply to this section.

(2) The Captain of the Port may waive any of the requirements of this section for any person, vessel or class of vessel upon finding that circumstances are such that application of the safety zone is unnecessary for port safety. The Captain of the Port can be contacted at telephone number (800) 325-4965.

(3) The Captain of the Port will notify the public of changes in the status of this safety zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

(d) *Effective period.* The safety zone in paragraph (a) of this section will be effective from 3:30 p.m., December 3, 2003 through May 8, 2004.

Dated: December 03, 2003.

**Jane M. Hartley,**

*Captain, U.S. Coast Guard, Captain of the Port, Wilmington, NC.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[NV 050-0073A; FRL-7595-3]

### Approval and Promulgation of Implementation Plans; State of Nevada; Designation of Areas for Air Quality Planning Purposes; Lake Tahoe Nevada Area

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

**ACTION:** Direct final rule.

**SUMMARY:** On October 27, 2003, the State of Nevada requested EPA to redesignate the Lake Tahoe Nevada "not classified" carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standards (NAAQS) and submitted a CO maintenance plan for the area as a revision to the Nevada State Implementation Plan (SIP). In this action, EPA is approving the maintenance plan and redesignating the Lake Tahoe Nevada nonattainment area to attainment. EPA is also determining that the maintenance plan is adequate for transportation conformity purposes under the limited maintenance plan policy for CO.

**DATES:** This direct final rule is effective February 13, 2004, without further notice, unless we receive adverse comments by January 14, 2004. Elsewhere in this **Federal Register**, we are proposing approval and soliciting written comment on this action. If adverse written comments are received, we will withdraw the direct final rule and address the comments received in a new final rule; otherwise no further rulemaking will occur on this approval action.

**ADDRESSES:** Please address your comments to Eleanor Kaplan, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901 or e-mail to [kaplan.eleanor@epa.gov](mailto:kaplan.eleanor@epa.gov), or submit comments at <http://www.regulations.gov>. A copy of the State's submittal is available for public inspection during normal business hours at EPA's Region IX office. Please contact Eleanor Kaplan if you wish to schedule a visit. A copy of the submittal is also available at the Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 333 West Nye Lane, Carson City, Nevada 89706.

**FOR FURTHER INFORMATION CONTACT:** Eleanor Kaplan, EPA Region IX at (415) 947-4147 or [kaplan.eleanor@epa.gov](mailto:kaplan.eleanor@epa.gov)

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us," and "our" refer to EPA. This supplementary information is organized as follows.

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#### I. What Is the Purpose of This Action?

EPA is redesignating the Lake Tahoe, Nevada "not classified" CO nonattainment area from nonattainment to attainment and approving the maintenance plan that will keep the area in attainment for the next ten years.

We originally designated the Lake Tahoe Basin as nonattainment for CO under the provisions of the Clean Air Act (CAA or "Act"), as amended in 1977. See 43 FR 8962 (March 3, 1978). The Lake Tahoe Basin nonattainment area ("Lake Tahoe Nevada area") is defined by State hydrographic area 90, which includes the southwestern corner of Washoe County and the western-most portions of Carson City and Douglas counties.

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted.<sup>1</sup> Under section 107(d)(1)(C) of the Act, as amended in 1990, the Lake Tahoe Nevada area was designated nonattainment for CO by operation of law because the area had been designated as nonattainment before November 15, 1990. Later, we categorized the Lake Tahoe Nevada area as an unclassified, or "not classified", CO nonattainment area because there were no violations of the CO standard during the two calendar years immediately preceding enactment of the 1990 Clean Air Act Amendments. See 56 FR 56694, at 56798 (November 6, 1991), codified at 40 CFR 81.329.

Nonattainment areas can be redesignated to attainment after the area has measured air quality data showing it has attained the NAAQS and when certain planning requirements are met. Section 107(d)(3)(E) of the CAA provides the requirements for redesignation. These are:

- (i) EPA determines that the area has attained the NAAQS;
- (ii) EPA has fully approved the applicable implementation plan for the area under section 110(k) of the Act;
- (iii) EPA determines that the improvement in air quality is due to

<sup>1</sup> Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q.