

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant

economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given

year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 22, 2008.

Ervin J. Barchenger,

Acting Regional Director, Mid-Continent Region.

■ For the reasons set out in the preamble, 30 CFR part 943 is amended as set forth below:

PART 943—TEXAS

■ 1. The authority citation for part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Section 943.15 is amended in the table by adding a new entry in chronological order by “Date of final publication” to read as follows:

§ 943.15 Approval of Texas regulatory program amendments.

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Original amendment submission date	Date of final publication	Citation/description
* * *	* * *	* * *
October 2, 2007	March 17, 2008	16 TAC 12.108(b)(1) through (b)(3).

[FR Doc. E8-5315 Filed 3-14-08; 8:45 am]
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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[USCG-2008-0045]

RIN 1625-AA11

Regulated Navigation Area: Herbert C. Bonner Bridge, Oregon Inlet, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard proposes to establish a temporary regulated navigation area (RNA) on the waters of Oregon Inlet, NC. The regulated navigation area (RNA) is needed to minimize the risk of potential structural

damage to the Herbert C. Bonner Bridge during fender repair work. This rule will enhance the safety of vessels transiting the area and vehicles crossing over the bridge during periods of reduced horizontal clearance in the main navigation channel.

DATES: This rule is effective from 5 a.m. on April 16, 2008 through 8 p.m. May 31, 2008.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0045 and are available online at www.regulations.gov. They are also available for inspection or copying at 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 and at the United States Coast Guard District Five Legal Office, 431 Crawford Street,

Portsmouth, Virginia between 9 a.m. and 3 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning this temporary final rule, phone CWO4 Stephen Lyons, Waterways Management Division Chief, Sector North Carolina, at (252) 247-4525. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

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. Immediate action is needed to protect the maritime public from the hazards associated with this maintenance project. The necessary information to determine whether the construction poses a threat to persons and vessels was not provided with

sufficient time to publish an NPRM. For the safety concerns noted, it is in the public interest to have this regulation in place during the construction.

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 public interest, since immediate action is needed to ensure the public's safety.

Background and Purpose

The State of North Carolina Department of Transportation has awarded two contracts to Marine Technologies Inc. of Baltimore, MD to perform repair work on the Herbert C. Bonner Bridge located in Oregon Inlet, NC. The first contract provides for the placing of six supplemental concrete sub-caps and the installation of nine pile jackets. The second contract is for the repair of the existing fender system that protects the main channel span from vessel allision. The fender repair is scheduled to begin on April 16, 2008 and will require 45 working days to complete. The contractor will be utilizing a spud barge with a 30' beam during the fender system repair work. During periods of work, the spud barge will reduce the available horizontal clearance of the main navigational channel to 105'. Vessel use of the alternate channels will not be sanctioned by the Coast Guard because the alternate spans are not clearly marked by navigational aids. In addition, due to concerns about the stability of the bridge, potential vessel strikes, and the absence of a fender system in the alternate channels, the only safe passage for vessels is through the main navigational channel.

Discussion of Rule

The proposed regulated navigation area would encompass the area of the main navigational channel directly under the Herbert C. Bonner Bridge. All vessels of 100 gross tons and greater are not permitted to transit the waterway during the periods of time when the available horizontal clearance is reduced by the contractor's spud barge unless the vessel asks the District Commander for permission to transit. The District Commander can be contacted via Sector North Carolina at telephone number (252) 247-4570.

The contractor's spud barge will be relocated out of the main navigational channel each day during non-working hours. All vessels, including vessels of 100 gross tons and greater, will be permitted to transit the main navigational channel during non-

working hours when the spud barge is removed.

Vessels less than 100 gross tons are permitted to use the main navigational channel at all times, including the periods of time when the spud barge is restricting the available horizontal clearance, but must transit the area at no-wake speed. However, nothing in this proposed rule negates the requirement to operate at a safe speed as provided in the Navigation Rules and Regulations.

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.

Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The regulated navigation area will be in effect for a limited duration of time and (ii) the Coast Guard will make notification via maritime advisories so mariners can adjust their plans accordingly.

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. Although the regulated area will apply to the waters of the Oregon Inlet, the zone will not have significant impact on small entities because the zone will only be in place for a limited duration of time and maritime advisories will be issued in advance to allow the public to adjust their plans accordingly.

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 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" will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION 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, 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.T05–005 to read as follows:

§ 165.T05–005 Regulated Navigation Area; Bonner Bridge Herbert C. Bonner Bridge, Oregon Inlet, NC.

(a) *Definitions.* For the purposes of this section, *District Commander* means the Commander, U.S. Coast Guard District Five and any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Commander, U.S. Coast Guard District Five to act as a designated representative on his behalf.

(b) *Location.* The following area is a regulated navigation area: All waters of Oregon Inlet, from the surface to the bottom, encompassing the area of the main navigational channel directly under the Herbert C. Bonner Bridge.

(c) *Regulations.* (1) The general regulations governing regulated navigation areas found in § 165.13 of this part apply to the regulated navigation area described in paragraph (b).

(2) Any vessel of 100 gross tons or greater may not transit the waterway when the available horizontal clearance is reduced by the contractor's spud

barge without first obtaining permission in accordance with paragraph (5).

(3) All vessels, including vessels of 100 gross tons or greater, will be permitted to transit the main navigational channel during non-working hours when the spud barge is removed.

(4) Vessels less than 100 gross tons are permitted to use the main navigational channel at all times, including the periods of time when the spud barge is restricting the available horizontal clearance, but must transit the area at no-wake speed.

(5) Vessels of 100 gross tons or greater desiring to transit the area of the regulated navigation area when the available horizontal clearance is reduced by the contractor's spud barge must first obtain authorization from the District Commander. To seek permission to transit the area, the District Commander can be contacted via Sector North Carolina at telephone number (252) 247–4570.

(6) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz).

(7) If permission is granted, all persons and vessels must comply with the instructions of the District Commander and proceed at the minimum speed necessary to maintain a safe course while within the zone.

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

(e) *Enforcement period.* This section will be enforced from 5 a.m. on April 16, 2008 through 8 p.m. May 31, 2008.

Dated: February 22, 2008.

F.M. Rosa, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E8–5327 Filed 3–14–08; 8:45 am]

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Copyright Office

37 CFR Part 258

[Docket No. RM 2008–3]

Section 119 and the Changes in the Consumer Price Index

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.