

Coast Guard Marine Safety Office  
Juneau, (907) 463-2470.

#### SUPPLEMENTARY INFORMATION:

##### Background

In final rule 59 FR 31934, the safety fallout radius around the barge conducting fireworks display is no longer correct because the marine event sponsor has increased the fireworks display shell size (12 inches) and amount of fireworks display (600 lbs Division 1.3G UN 0335), causing an increase in the required safety fallout radius of 300 yards around the barge conducting fireworks display activities.

##### Need for Correction

As published, the final regulations contain errors which may prove to be dangerous to the public and need to be amended. Accordingly, 33 CFR Part 165 is corrected by making the following correcting amendments:

#### 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. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

##### § 165.1706 [Amended]

2. In § 165.1706 paragraph (a), remove the word “100” and add the word “300” in its place, respectively.

Dated: December 5, 2000.

**Robert Lorigan,**

*Captain, U.S. Coast Guard, Captain of the Port, Southeast Alaska.*

[FR Doc. 00-32824 Filed 12-22-00; 8:45 am]

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#### DEPARTMENT OF TRANSPORTATION

##### Coast Guard

##### 33 CFR Part 165

[CGD05-00-051]

RIN 2115-AA97

##### Safety Zone; Big Island Contract Section of the Wilmington Harbor Deepening Project, Wilmington, NC

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the Cape Fear River in Wilmington, NC. This zone is necessary to ensure the safety of life and property during the detonation of explosives along the bottom of the Cape Fear River in conjunction with the

harbor deepening and widening project. Vessels entering the safety zone must inform themselves when and where blasting activities will occur, and stay 500 yards away from any blasting activities.

**DATES:** The rule is effective from 9 a.m. on November 6, 2000, through 5 p.m. on January 31, 2001.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-00-051 and are available for inspection or copying at USCG Marine Safety Office Wilmington, 1502 23rd Street, Wilmington, NC 28405 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LCDR Novotny, Chief of Port Operations, at (910) 772-2215, or after normal business hours, the Officer of the Day at (910) 313-5213.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History:

A Notice of Proposed Rule Making (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. In keeping with the requirements of 5 U.S.C. 533(d)(3), the Coast Guard also finds good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**. The Coast Guard received confirmation of this request from Great Lakes Dredge and Dock Company on 2 October, 2000. There was not sufficient time to publish a proposed rule in advance of the event. Publishing an NPRM and delaying the effective date of the regulation would be contrary to the public interest because immediate action is necessary to protect vessels, property, and the public, from hazards associated with the detonation of explosives.

##### Background and Purpose

The Captain of the Port Wilmington, North Carolina, received notification from Great Lakes Dredge and Dock Company on 2 October 2000, that the company intended to detonate explosives along the bottom of the Cape Fear River in order to break up rock to be dredged. In order to ensure the safety of life and property the Coast Guard is establishing a safety zone that encompasses the section of the Cape Fear River where the blasting is to occur. The safety zone is the width of the Cape Fear River, between Latitudes 34°06'00" N and 34°09'00" N. Vessels and persons entering the safety zone

must check one of the following sources of information concerning the location and time of blasts occurring that day, and maintain a 500 yard distance from the blast sites. The blast sites within the safety zone will be identified daily and made available to the public through a Broadcast Notice to Mariners, direct contact with the control vessel on channel 16 VHF-FM, direct contact with the contractor, Great Lakes Dredge and Dock Company at (910) 350-3507, or through the Coast Guard Marine Safety Office at (910) 772-2200. In addition, Great Lakes Dredging will have control vessels present at the site of blast to warn any vessels in the area.

##### Regulatory Evaluation

This rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 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 Transportation (DOT) (44 FR 11040, February 26, 1979). This rule only affects waters between Latitudes 34°06'00" N and 34°09'00" N on the Cape Fear River, Wilmington, North Carolina. Vessels will be allowed to pass through the Safety Zone if they inform themselves of the time and location of the blasts. The actual blast sites will be identified daily and made available to the public through a Broadcast Notice to Mariners, direct contact with the control vessel on channel 16 VHF-FM, direct contact with the contractor, Great Lakes Dredge and Dock Company at (910) 350-3507, or through the Coast Guard Marine Safety Office at (910) 772-2200. Therefore, the Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

##### 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, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in that portion of the Cape Fear River affected by this safety zone from 9:00 a.m. 6 November 2000, through 5:00 p.m. on 31 January 2001.

This safety zone will not have a significant economic impact on substantial number of small entities for the following reasons. This rule only affects a limited area of water for the limited period of time. Vessels will be allowed to transit the safety zone provided that they comply with Captain of the Port requirements for doing so. It is unlikely that there will be more than two blasts a day, one in the morning and one in the evening. The waterway will be restricted one hour before the blasts and will be reopened after the blast.

#### **Assistance to Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we are willing 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 Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small businesses. 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**

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the

funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

#### **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.

#### **Environment**

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(g) of Commandant Instruction M16475.IC, this rule is categorically excluded from further environmental documentation.

#### **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—[AMENDED]**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; and 49 CFR 1.46.

2. Add temporary § 165.T05-051 to read as follows:

#### **§ 165.T05-051 Safety Zone; Cape Fear River, Wilmington, North Carolina.**

(a) *Location.* The following area is a safety zone: The Cape Fear River near Wilmington, N.C. between Latitudes 34°06'00" N and 34°09'00" N.

(b) *Blast Sites.* The blast sites will be within the Safety Zone, and will be identified daily and made available to the public through a Broadcast Notice to Mariners, direct contact with the control vessel on channel 16 VHF-FM, direct

contact with the contractor, Great Lakes Dredge and Dock Company at (910) 350-3507, or through the Captain of the Port on VHF Marine Band Radio, channels 13 and 16, or at telephone number (910) 772-2200. In addition, Great Lakes Dredge and Dock Company will have control vessels present at the site of blast.

(c) *Effective Date.* From 9 a.m. on November 6, 2000, through 5 p.m. on January 31, 2001.

(d) *Definitions.*

(1) 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 Captain of the Port to act on his behalf.

(2) Blast Site means the location Great Lakes Dredge and Dock Company is placing or detonating underwater explosives, as announced by Broadcast Notice to Mariners, direct contact with the control vessel on channel 16 VHF-FM, direct contact with the contractor, Great Lakes Dredge and Dock Company at (910) 350-3507, or through the Captain of the Port on VHF Marine Band Radio, channels 13 and 16, or at telephone number (910) 772-2200. Blast Sites will be within the Safety Zone.

(3) Control Vessels are vessels operated by Great Lakes Dredging that mark the blast site, monitor and provide safety advisories on VHF Channel 16, and warn vessels away from the blast site.

(e) *Regulation.*

(1) Any person or vessel entering or navigating in the safety zone must inform themselves of the time and location of scheduled blasts. The blast sites within the safety zone will be identified daily and made available to the public through a Broadcast Notice to Mariners, direct contact with the control vessel on channel 16 VHF-FM, direct contact with the contractor, Great Lakes Dredge and Dock Company at (910) 350-3507, or through the Coast Guard Marine Safety Office at (910) 772-2200. In addition, Great Lakes Dredging will have control vessels present at the blast site to warn any vessels in the area.

(2) Any person or vessel operating in the Safety Zone must maintain a distance of 500 yards from the Blast Site unless authorized to be closer by the Captain of the Port.

(3) Any person operating in the Safety Zone must comply with instructions given by the Captain of the Port and monitor VHF channel 16 for safety advisories provided by Great Lakes Dredge and Dock Company.

(4) Great Lakes Dredge and Dock Company will operate a Control Vessel

at every blast site. Control Vessels crews must be able to warn of the blast site danger and communicate on VHF Channel 16.

(5) The Captain of the Port can be contacted on VHF Marine Band Radio, channels 13 and 16, or at telephone number (910) 772-2200.

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

Dated: October 30, 2000.

**W.C. Bennett,**

*Captain, USCG, Captain of the Port,  
Wilmington, NC.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-00-253]

RIN 2115-AA97

#### **Safety Zone; Potential Explosive Atmosphere, Vessel Highland Faith, Port of New York/New Jersey.**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary moving safety zone for a potential explosive atmosphere on the vessel HIGHLAND FAITH, in the Port of New York/New Jersey. This action is necessary to protect investigating personnel, vessel repair personnel, the vessel HIGHLAND FAITH, and vessels in the vicinity of the vessel HIGHLAND FAITH, and the marine environment. This action is intended to restrict vessel traffic within a 2000-foot radius of the vessel HIGHLAND FAITH.

**DATES:** This rule is effective from 10:30 a.m. (e.s.t.) on December 12, 2000, until 7 a.m. (e.s.t.) on January 1, 2001.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-00-253) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354-4012.

## SUPPLEMENTARY INFORMATION:

### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Good cause exists for not publishing an NPRM due to the fact that the safety zone is required due to an unforeseen potential explosive atmosphere and required vessel safety inspections and needed repairs. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to close the waterway and protect the inspection personnel, the vessel HIGHLAND FAITH and vessels in the vicinity of the HIGHLAND FAITH, and the marine environment.

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**. This is due to the following reasons: it is an unforeseen explosive atmosphere, and is needed to protect the inspection personnel, the vessel HIGHLAND FAITH and vessels in the vicinity of the HIGHLAND FAITH, and the marine environment.

### Background and Purpose

There is an ongoing potential explosive atmosphere in the Port of New York/New Jersey on the vessel HIGHLAND FAITH that began on December 5, 2000. The Coast Guard is establishing a temporary moving safety zone to provide safety to personnel engaged in the vessel safety inspection and vessel repairs, and to vessels in the area. The safety zone is in effect from 10:30 a.m. (e.s.t.) on December 12, 2000, until 7 a.m. (e.s.t.) on January 1, 2001. The effective times of this safety zone may be extended or shortened depending on the time required to conduct the safety inspections and vessel repairs. The safety zone prevents vessels from transiting within a 2000-foot radius of the vessel HIGHLAND FAITH in the Port of New York/New Jersey. The size and duration of this zone may be expanded or contracted as required for oil spill recovery activities, safety inspections, and vessel repairs. Public notifications will be made by facsimile, broadcast notice to mariners, and to VTS users as required.

### Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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 Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, and the unforeseen nature of the potential explosive atmosphere.

The size of this safety zone was determined using the predicted explosive radius of the vessel.

### 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, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Port of New York/New Jersey during the times this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: it is due to an unforeseen incident creating a potential explosive atmosphere, and the safety zone only closes the Port of New York/New Jersey within a 2000-foot radius of the vessel HIGHLAND FAITH while it is in the Port of New York/New Jersey. The size and duration of the zone may be expanded or contracted due to the results of the vessel safety inspection.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have