

total direct earned premium is attributable to such coverage. For purposes of the Program, commercial coverage combined with coverages that otherwise do not meet the definition of commercial property and casualty insurance is incidental if less than 25 percent of the total direct earned premium is for such coverage.

(iv) If a property and casualty insurance policy covers both commercial and personal risk exposures, insurers may allocate the premiums in accordance with the proportion of risk between commercial and personal components in order to ascertain direct earned premium. If a policy includes insurance coverage that meets the definition of commercial property and casualty insurance for losses occurring at the locations described in section 102(5)(A) and (B) of the Act, but also includes other coverage, insurers may allocate the premiums in accordance with the proportion of risk attributable to the components, in order to ascertain direct earned premium.

\* \* \* \* \*

(3) *Certain eligible surplus line carrier insurers.* An eligible surplus line carrier insurer listed on the NAIC Quarterly Listing of Alien Insurers must ascertain its direct earned premium as follows:

(i) For policies that were in-force as of November 26, 2002, or entered into prior to January 1, 2003, direct earned premiums are to be determined with reference to the definition of property and casualty insurance and the locations described in section 102(5)(A) and (B) of the Act by allocating the appropriate portion of premium income for losses for property and casualty insurance at such locations. The same allocation methodologies contained within the NAIC's "Allocation of Surplus Lines and Independently Procured Insurance Premium Tax on Multi-State Risks Model Regulation" for allocating premium between coverage for property and casualty insurance for losses occurring at the locations described in section 102(5)(A) and (B) of the Act and all other coverage, to ascertain the appropriate percentage of premium income to be included in direct earned premium, may be used.

(ii) For policies issued after January 1, 2003, premium for insurance that meets the definition of property and casualty insurance for losses occurring at the locations described in section 102(5)(A) and (B) of the Act, must be priced separately by such eligible surplus line carriers.

\* \* \* \* \*

Dated: August 5, 2003.

**Wayne A. Abernathy,**

*Assistant Secretary of the Treasury.*

[FR Doc. 03-20644 Filed 8-12-03; 8:45 am]

BILLING CODE 4810-25-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD13-03-025]

RIN 1625-AA00

#### Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary safety zones during the tow and moor operations of the caissons being used for the Tacoma Narrows Bridge construction project. The Coast Guard is taking this action to safeguard the public from hazards associated with the transport and construction of the caissons being used to construct piers for the new bridge. These safety hazards include, but are not limited to, hazards to navigation, allisions with the caissons, allisions with the caisson mooring system, and collisions with work vessels and barges. Entry into these zones is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

**DATES:** This rule is effective from August 6, 2003 through February 6, 2004.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** ENS Tyana Thayer c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134, at (206) 217-6222.

#### 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 a NPRM would be contrary to public interest since immediate action is necessary to ensure the safety of vessels and persons that transit in the vicinity of the Tacoma Narrows Bridge. The Coast Guard did not initially intend to issue a safety zone for this project. However, recent events of boaters navigating too close to the construction zone and reports of scuba divers diving near the caissons make a safety zone necessary. If normal notice and comment procedures were followed, this rule would not become effective in sufficient time. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

#### Background and Purpose

The Coast Guard is adopting a temporary safety zone regulation on the Tacoma Narrows and adjoining waters, for the Tacoma Narrows Bridge Project. The Coast Guard has determined it is necessary to limit access to a 250-yard radius around each of the two new bridge piers. Caissons are being used to build the new bridge piers. The new bridge piers are located just north of the existing Tacoma Narrows Bridge. The dangers to persons and vessels transiting this area include, but are not limited to, hazards to navigation, allisions with the caissons, allisions with the caisson mooring system, and collisions with work vessels and barges. The Coast Guard, through this action, intends to promote the safety of persons and vessels in the area. Entry into these zones will be prohibited unless authorized by the Captain of the Port. Coast Guard personnel will enforce these safety zones. The Captain of the Port may be assisted by other Federal, State, or local agencies.

#### 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 Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the regulated area established by the regulation would encompass a small

area that should not impact commercial or recreational traffic. The Coast Guard does not anticipate any significant economic impact.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule will have a significant economic impact on a substantial number of small entities. “Small entities” include 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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit this portion of the Tacoma Narrows when this rule is in effect. The zone will not have a significant economic impact due to its short duration and small area. Because the impacts of this rule are expected to be so minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601–612) that this final rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### Collection of Information

This rule would call 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 costs. This rule would not impose an unfunded mandate.

#### Taking of Private Property

This rule would 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.

#### Indian Tribal Governments

The Coast Guard recognizes the rights of Native American Tribes under the Stevens Treaties. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies to mitigate tribal concerns. Given the flexibility of this rule to accommodate the special needs of mariners in the vicinity of the bridge construction, and the Coast Guard's commitment to working with the Tribes, we have determined that safety in the vicinity of the bridge construction project and fishing rights protection need not be incompatible and therefore have determined that 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

The Coast Guard's preliminary review indicates this rule is categorically excluded from further environmental documentation under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D. The environmental analysis and Categorical Exclusion Determination will be prepared and be available in the docket for inspection and copying where indicated under **ADDRESSES**. All standard environmental measures remain in effect.

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

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

#### Final Rule

■ For the reasons set out 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. From August 6, 2003 through February 6, 2004, a temporary § 165.T13–016 is added to read as follows:

#### § 165.T13–016 Safety Zone Regulations; New Tacoma Narrows Bridge Construction Project.

(a) *Locations.* The following areas are safety zones: All waters of the Tacoma Narrows, Puget Sound, and adjoining waters of Washington State, within a 250 yard radius around each of the following coordinates (which are the

approximate center points of the two new bridge piers): (1) 47°15'54.08" North; 122°32'49.65" West; and (2) 47°16'15.07" North; 122°33'15.95" West [Datum: NAD 1983].

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, this Temporary Final Rule applies to any person or vessel in the navigable waters of the United States. No person or vessel may enter or remain in the above safety zones, unless authorized by the Captain of the Port or his designated representatives. Vessels and persons granted authorization to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port or his designated representative.

(c) *Applicable dates.* This section applies from August 6, 2003 through February 6, 2004.

Dated: August 5, 2003.

**Danny Ellis,**

*Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.*

[FR Doc. 03-20652 Filed 8-12-03; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Wilmington 03-117]

RIN 1625-AA00

#### Safety Zone; Bogue Sound, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is enacting a temporary Safety Zone in the Atlantic Intracoastal Waterway (AICW) in the vicinity of Marine Corps Base Camp Lejeune, NC. Naval gunfire will be conducted crossing the AICW from offshore in the vicinity of N-1/BT3 impact area and impacting areas in Camp Lejeune during dates and times as specified below. This safety zone is needed to ensure the safety of persons and vessels operating on the AICW in this area during the specified periods. Entry into this safety zone is prohibited unless authorized by the Captain of the Port or his/her designated representative.

**DATES:** This rule is effective from 12 p.m. on August 15, 2003 to 4 p.m. on August 20, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket COTP

Wilmington 03-117 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 3 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 since immediate action is necessary to minimize potential danger to the public and required to ensure the safety or persons and vessels operating on the Atlantic Intracoastal Waterway (AICW) in this area at the times specified. Advanced notice was not received from the originator that would have allowed publication to occur in the **Federal Register**.

##### Background and Purpose

Naval gunfire will be conducted crossing the AICW and impacting areas in Camp Lejeune from 12 p.m. to 4 p.m. Eastern Daylight Time on August 15, 19 & 20, 2003. The safety zone is in effect to ensure the safety of persons and vessels operating on the AICW in this area.

##### Discussion of Rule

The safety zone will cover the AICW extending from Bogue Sound-New River Daybeacon 58 (LLNR 39210) southeast to Bogue Sound-New River Light 64 (LLNR 39230). 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 is prohibited unless authorized by the Captain of the Port or his/her designated representative. A Coast Guard or U.S. Navy vessel will patrol each end of the safety zone to ensure that the public is aware that the firing exercises are in progress and that the firing area is clear of traffic before firing commences.

##### 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). This rule only affects a small portion, less than two miles, of the AICW in North Carolina for a limited time. The regulations have been tailored in scope to impose the least impact on maritime interests, yet provide the level of safety necessary for such an event.

##### 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 12 p.m. to 4 p.m. Eastern Daylight Time on August 15, 19 & 20, 2003. The Coast Guard expects a minimal economic impact on a substantial number of small entities due to this rule because little commercial traffic transits this area of the AICW.

##### 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. 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