DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0426]

RIN 1625–AA00

Safety Zone, Atlantic Intracoastal Waterway; North Topsail Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Atlantic Intracoastal Waterway at North Topsail Beach, North Carolina. The safety zone is necessary to provide for the safety of mariners on navigable waters during maintenance of the NC 210 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 252.3, at North Topsail Beach, North Carolina. The safety zone will temporarily restrict vessel movement.

DATES: This rule is effective from September 1, 2012 until December 12, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0426]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 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 rule, call or email CWO4 Joseph M. Edge, U.S. Coast Guard Sector North Carolina; telephone 252–247–4525, email *Joseph.M.Edge@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On June 15, 2012 a Notice of Proposed Rule Making (NPRM) was published in 77 FR 35898. We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

North Carolina Department of Transportation has awarded a contract to T.A. Loving Company of Goldsboro, NC to perform bridge maintenance on the NC 210 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 252.3, at North Topsail Beach, North Carolina. The contract provides for replacing the fender system to commence on September 12, 2012 with a completion date of December 12, 2012. The contractor will utilize a 115 foot deck barge with a 30 foot beam as a work platform and for equipment staging. This safety zone will provide a safety buffer to transiting vessels as bridge repairs present potential hazards to mariners and property due to reduction of horizontal clearance. During this period the Coast Guard will require a one hour notification to the work supervisor at the NC 210 Fixed Bridge at the Atlantic Intracoastal Waterway crossing, mile 252.3, North Topsail Beach, North Carolina. The notification requirement will be applicable during the maintenance period for vessels requiring a horizontal clearance of greater than 50 feet.

C. Discussion of Comments, Changes and the Final Rule

We received no comments on the proposed rule. No public meeting was requested, and none was held.

The temporary safety zone will encompass the waters directly under the NC 210 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 252.3, at North Topsail Beach, North Carolina (34°30′01″ N/077°25′47″ W). All vessels transiting this section of the waterway requiring a horizontal clearance of greater than 50 feet will be required to make a one hour advanced notification to the work supervisor at the NC 210 Fixed Bridge while the safety zone is in effect. This zone will be in effect and enforced from 8 a.m. September 1, 2012 through 8 p.m. December 12, 2012.

D. 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.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule does restrict traffic from transiting a portion of the Atlantic Intracoastal Waterway; it imposes a one hour notification to ensure the waterway is clear of impediment to allow passage to vessels requiring a horizontal clearance of greater than 50 feet.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. 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 would affect the following entities, some of which may be small entities: the owners or operators of commercial tug and barge companies, recreational and commercial fishing vessels intending to transit the specified portion of Atlantic Intracoastal Waterway from 8 a.m. September 1, 2012 through 8 p.m. December 12, 2012.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone will apply to this section of the Atlantic Intracoastal Waterway, vessel traffic will be able to request passage by providing a one hour advanced notification. Before the effective period, the Coast Guard will issue maritime advisories widely available to the users of the waterway.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. 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**, above.

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.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INTFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

7. 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 (adjusted for inflation) 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.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. 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.

10. 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.

11. 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.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a temporary safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

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—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; 46 U.S.C. Chapter 701, 3306, 3703; 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.T05–0426 to read as follows:

§ 165.T05–0426 Safety Zone; Atlantic Intracoastal Waterway, North Topsail Beach, NC.

(a) *Regulated Area.* The following area is a safety zone: This zone includes the waters directly under and 100 yards either side of the NC 210 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 252.3, at North Topsail Beach, North Carolina (34°30′01″ N/ 077°25′47″ W).

(b) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05–0426. In addition the following regulations apply:

(1) All vessels and persons are prohibited from entering this zone, except as authorized by the Coast Guard Captain of the Port North Carolina.

(2) All vessels requiring greater than 50 feet horizontal clearance are prohibited from entering this zone, except as authorized by the Coast Guard Captain of the Port North Carolina. All other vessels are required to transit the zone at no wake speeds.

(3) All vessels requiring greater than 50 feet horizontal clearance to safely transit through the NC 210 Fixed Bridge crossing the Atlantic Intracoastal Waterway, mile 252.3, at North Topsail Beach, North Carolina must contact the work supervisor tender on VHF–FM marine band radio channels 13 and 16 one hour in advance of intended transit.

(4) All Coast Guard assets enforcing this safety zone can be contacted on VHF–FM marine band radio channels 13 and 16.

(5) The operator of any vessel within or 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 board a vessel displaying a Coast Guard Ensign, and

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

(c) *Definitions.* (1) Captain of the Port North Carolina means the Commander, Coast Guard Sector 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 behalf.

(2) Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port North Carolina to assist in enforcing the safety zone described in paragraph (a) of this section.

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

(e) *Enforcement period.* This section will be enforced from 8 a.m. September 1, 2012 through 8 p.m. December 12, 2012 unless cancelled earlier by the Captain of the Port.

Dated: July 16, 2012.

A. Popiel,

Captain, U.S. Coast Guard Captain of the Port Sector North Carolina.

[FR Doc. 2012–18716 Filed 7–31–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0491]

RIN 1625–AA00

Safety Zone, Barrel Recovery, Lake Superior; Duluth, MN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone surrounding Tug Champion (O.N. 55 6Z93)/Barge Kokosing (O.N. 1144055) while they conduct recovery and testing of barrels suspected to contain munitions waste materials which were dumped in the 1960's in a portion of Lake Superior approximately between Stoney Point and Brighton Beach, Duluth, MN. This safety zone is precautionary to protect recreational vessels and marine traffic from any unknown hazards as well as provide a safe work zone for contractor operations.

DATES: This rule will be effective from July 30, 2012 to August 20, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0491]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 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 rule, call or email Lieutenant Judson Coleman, Chief of Waterways Management, U.S. Coast Guard Marine Safety Unit Duluth; telephone number (218) 720–5286, extension 111, email at *Judson.A.Coleman@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and 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 the final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect vessels from the hazards associated with recovery of possible munitions waste, which are discussed further below.

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**. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would also be impracticable and contrary to the public interest.

B. Basis and Purpose

From July 30, 2012 to August 20, 2012, the Tug Champion (O.N. 55 6Z93)/Barge Kokosing (O.N. 1144055) will recover and test barrels suspected to contain munitions waste materials dumped offshore in a portion of Lake Superior approximately 50 years ago.

C. Discussion of the Final Rule

The following area is a temporary safety zone: All waters within a 700 foot radius of the Tug Champion (O.N. 55 6Z93)/Barge Kokosing (O.N. 1144055)as it conducts recovery and testing of barrels suspected of containing munitions waste materials in the area between Stoney Point and Brighton Beach, up to approximately 4 miles offshore on Lake Superior, Duluth, MN. This safety zone will be in effect and enforced 24 hours a day from on or around July 30, 2012 to August 20, 2012.

This rule is deemed necessary in order to protect vessels transiting Lake Superior in close proximity to the Tug Champion (O.N. 55 6Z93)/Barge Kokosing (O.N. 1144055) from exposure to possible unknown hazards as it conducts recovery and testing of barrels containing munitions parts and product line debris. This zone does not have specific coordinates because the Tug Champion (O.N. 55 6Z93)/Barge Kokosing (O.N. 1144055)will be recovering barrels in several locations over the course of the effective period and a safety zone encompassing the entire recovery area would have a negative impact on recreational vessel traffic.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented