

**§ 165.T09-0496 Safety Zone; Michigan Orthopaedic Society 50th Anniversary Fireworks, Lake Huron, Mackinac Island, MI**

(a) *Location.* The following area is a temporary safety zone: all waters of Lake Huron within a 500-foot radius from the fireworks launch site, approximately 460 yards south of Biddle Point, at position 45°50'32.82" N, 084°37'03.18" W: [DATUM: NAD 83].

(b) *Effective period.* This regulation is effective from 9 p.m. until 11 p.m. on June 19, 2010. This rule will be enforced from 9 p.m. to 11 p.m. on June 19, 2010.

(1) The Captain of the Port, Sector Sault Sainte Marie, may suspend at any time the enforcement of the safety zone established under this section.

(2) The Captain of the Port, Sector Sault Sainte Marie, will notify the public of the enforcement and suspension of enforcement of a safety zone established by this section via any means that will provide as much notice as possible to the public. These means might include some or all of those listed in 33 CFR 165.7(a). The primary method of notification, however, will be through Broadcast Notice to Mariners and local Notice to Mariners.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within an enforced safety zone established by this section is prohibited unless authorized by the Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative.

(3) The "on-scene representative" of the Captain of the Port, Sector Sault Sainte Marie, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Sault Sainte Marie, to act on his behalf. The on-scene representative of the Captain of the Port, Sector Sault Sainte Marie, will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within an enforced safety zone shall contact the Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative to obtain permission to do so. The Captain of the Port, Sector Sault Sainte Marie, or his on-scene representative may be contacted via VHF Channel 16.

Dated: June 2, 2010.

**M.J. Huebschman,**

*Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.*

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**[Docket No. USCG-2010-0504]**

**RIN 1625-AA00**

**Safety Zone; McNary-John Day Transmission Line Project, Columbia River, Hermiston, OR**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of the Columbia River near Hermiston, Oregon for the installation of new power lines across the river. The safety zone is necessary to help ensure the safety of the workers as well as the maritime public and will do so by prohibiting all persons and vessels from entering or remaining in the safety zone unless authorized by the Captain of the Port or his designated representative.

**DATES:** *Effective Date:* This rule is effective in the CFR from June 16, 2010 until 11:59 p.m. on October 31, 2011. This rule is effective with actual notice for purposes of enforcement beginning 10 a.m. on June 10, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0504 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0504 in the "Keyword" box, and then clicking "Search." 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail MST1 Jaime Sayers, Waterways Management, Coast Guard Sector Portland; telephone 503-240-9319, e-mail [Jaime.A.Sayers@uscg.mil](mailto:Jaime.A.Sayers@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory 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) because the publishing of an NPRM would be impracticable and contrary to public interest since immediate action is needed to ensure the public's safety during construction activity. Delaying the implementation of the safety zone would subject the public to the hazards associated with the reconstruction of the transmission towers. The danger posed by marine traffic on the Columbia River makes safety zone regulations necessary to provide for the safety of construction support vessels, spectator craft and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during construction. The Coast Guard will issue broadcast notice to mariners to advise vessel operators of navigational restrictions.

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**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

**Basis and Purpose**

Wilson Construction Company (WCC) has been contracted to replace 12 power lines that cross the Columbia River and reconstruct four transmission towers on the banks of the Columbia River near Hermiston, Oregon between June 10, 2010 and October 31, 2011. The company will be using a helicopter to string the new lines and replace the towers. Due to the inherent dangers associated with this type of work, a safety zone is necessary to help ensure the safety of the workers involved as well as the maritime public in general.

### Discussion of Rule

The safety zone created by this rule encompasses all waters of the Columbia River between two lines: The east line starting at the north bank at 45° 56' 16.5" N/119° 19' 24" W then across the river to the south bank at 45° 55' 47" N/119° 19' 07" W and the west line starting at the north bank at 45° 56' 05" N/119° 19' 48" W and then across the river to the south bank at 45° 55' 44" N/119° 19' 38" W. Geographically this location is from the West bridge of I-82 east approximately 1,200 feet toward the McNary Dam.

The safety zone will be in effect from 10 a.m. on June 10, 2010 through 11:59 p.m. on October 31, 2011. All persons and vessels are prohibited from entering or remaining in the safety zone unless authorized by the Captain of the Port or his designated representative. Vessels will be allowed to transit through the safety zone during designated times throughout the duration as coordinated by the on-scene designated representative of the Captain of the Port.

### 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.

### Regulatory Planning and Review

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. The Coast Guard has made this finding based on the fact that the Captain of the Port and/or his designated representative will allow maritime traffic to transit through the safety zone when it is safe to do so.

### 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 may affect the following entities some of which may be small entities: the owners and operators of vessels intending to operate in the area covered by the safety zone created in this rule between June 10, 2010 and October 31, 2011. The safety zone will not have a significant economic impact on a substantial number of small entities, however, because the Captain of the Port and/or his designated representative will allow maritime traffic to transit through the safety zone when it is safe to do so.

### 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 (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.

### 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.

### 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 Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded 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 is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a temporary safety zone. An environmental analysis checklist and a 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 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. 1226, 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.T13-149 to read as follows:

#### § 165.T13-149 Safety Zone; McNary-John Day Transmission Line Project, Columbia River, Hermiston, OR

(a) *Location:* The following is a safety zone: All waters of the Columbia River between two lines with the first line

starting at the north bank at 45° 56' 16.5" N/119° 19' 24" W then across the river to the south bank at 45° 55' 47" N/119° 19' 07" W and the second line starting at the north bank at 45° 56' 05" N/119° 19' 48" W and then across the river to the south bank at 45° 55' 44" N/119° 19' 38" W. Geographically this location is from the West bridge of I-82 east approximately 1200 feet toward the McNary Dam.

(b) *Regulations.* In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person may enter or remain in the safety zone created in this section or bring, cause to be brought, or allow to remain in the safety zone created in this section any vehicle, vessel, or object unless authorized by the Captain of the Port or his designated representative. Designated representatives are Coast Guard personnel authorized by the Captain of the Port to grant persons or vessels permission to enter or remain in the safety zone created by this section. See 33 CFR part 165, subpart C, for additional information and requirements.

(c) *Enforcement Period.* The safety zone created in this section will be in effect from 10 a.m. on June 10, 2010 through 11:59 p.m. on October 31, 2011.

Dated: June 2, 2010.

**F.G. Myer,**

*Captain, U.S. Coast Guard, Captain of the Port, Portland.*

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**BILLING CODE 9110-04-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0477]

RIN 1625-AA00

#### Safety Zone; Fourth of July Fireworks Event, Cape Charles City Harbor, Cape Charles, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a 420-foot radius safety zone on the navigable waters of Cape Charles City Harbor in Cape Charles, VA, in support of the Fourth of July Fireworks event. This action is intended to restrict vessel traffic movement to protect mariners and spectators from the hazards associated with aerial fireworks displays.

**DATES:** This rule is effective from 8 p.m. to 10 p.m. on July 4, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0477 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0477 in the "Keyword" box, and then clicking "Search." 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or e-mail LT Tiffany Duffy, Waterways Management Division, Coast Guard; telephone 757-668-5580, e-mail [Tiffany.A.Duffy@uscg.mil](mailto:Tiffany.A.Duffy@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory 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 any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public interest since immediate action is needed to provide for the safety of life and property on navigable waters. Additionally, this temporary safety zone will be enforced for approximately two hours on Sunday, July 4, 2010, while the fireworks display is in progress. This safety zone should have a minimal impact on transiting vessels because mariners are not precluded from using any portion of the waterway except the area within the safety zone.

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**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property, and