

(e) *Effective/applicability date.* This section applies to triangular reorganizations occurring on or after May 17, 2011. For triangular reorganizations that occur prior to May 17, 2011, see § 1.367(b)-14T as contained in 26 CFR part 1 revised as of April 1, 2011.

**§ 1.367(b)-14T [Removed]**

■ **Par. 6.** Section 1.367(b)-14T is removed.

**Steven T. Miller,**  
*Deputy Commissioner for Services and Enforcement.*

Approved: May 11, 2011.

**Michael Mundaca,**  
*Assistant Secretary of the Treasury (Tax Policy).*

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**BILLING CODE 4830-01-P**

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2011-0253]

RIN 1625-AA00

#### Safety Zone; Ohio River, Sewickley, PA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on specified waters of the Ohio River in Sewickley, Pennsylvania. The safety zone is needed to protect the public from the hazards associated with the Borough of Sewickley fireworks display. Entry into, movement within, and departure from this Coast Guard safety zone, while it is activated and enforced, is prohibited, unless authorized by the Captain of the Port Pittsburgh or a designated representative.

**DATES:** This rule is effective from 8:30 p.m. until 10:15 p.m. on May 27, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0253 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0253 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 Ensign Robyn Hoskins, Marine Safety Unit Pittsburgh, Coast Guard; telephone 412-644-5808, e-mail [Robyn.G.Hoskins@uscg.mil](mailto:Robyn.G.Hoskins@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. Publishing a NPRM would be impracticable because immediate action is needed to protect the public due to the Borough of Sewickley fireworks display that will occur in the city of Sewickley, PA.

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**. Publishing an NPRM and delaying its effective date would be impracticable based on the short notice received for the event and the short period that the safety zone will be in place. Immediate action is needed to provide safety and protection during the Borough of Sewickley fireworks display that will occur in the city of Sewickley, Pennsylvania.

#### Basis and Purpose

The Coast Guard is establishing a temporary safety zone on the Ohio River from mile marker 11.7 to mile marker 12.0, extending the entire width of the river. The safety zone is needed to protect the public from the hazards associated with the Borough of Sewickley fireworks display.

#### Discussion of Rule

The Coast Guard is establishing a temporary safety zone on the Ohio River from mile marker 11.7 to mile marker 12.0, extending the entire width of the river. Vessels shall not enter into, depart from, or move within this safety zone without permission from the Captain of the Port Pittsburgh or his authorized representative. Persons or vessels

requiring entry into or passage through a safety zone must request permission from the Captain of the Port Pittsburgh, or a designated representative. They may be contacted on VHF-FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1-800-253-7465. This rule is effective from 8:30 p.m. until 10:15 p.m. on May 27, 2011. The Captain of the Port Pittsburgh will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

#### 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.

This rule will be in effect for a short period of time and notifications to the marine community will be made through broadcast notices to mariners. The impacts on routine navigation are expected to be minimal.

#### 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 that portion of the waterways on the Ohio River from mile marker 11.7 to mile marker 12.0.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for a short period of time, on

a weekend day, and during a time when vessel traffic is low.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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 Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, 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 which 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 establishing 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; 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. Add § 165.T08–0253 to read as follows:

#### § 165.T08–0253 Safety Zone; Ohio River, Sewickley, PA.

(a) *Location.* The following area is a safety zone: All waters of the Ohio River from mile marker 11.7 to mile marker 12.0, extending the entire width of the river. These markings are based on the USACE's *Ohio River Navigation Charts* (Chart 1, January 2003).

(b) *Effective date.* This rule is effective from 8:30 p.m. until 10:15 p.m. on May 27, 2011.

(c) *Periods of Enforcement.* This rule will only be enforced from 8:30 P.M. until 10:15 P.M. on May 27, 2011. The Captain of the Port Pittsburgh or a

designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Pittsburgh.

(2) Persons or vessels requiring entry into or passage through a safety zone must request permission from the Captain of the Port Pittsburgh or a designated representative. They may be contacted on VHF-FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1-800-253-7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel includes Commissioned, Warrant, and Petty Officers of the U.S. Coast Guard.

Dated: April 12, 2011.

**R.V. Timme,**

*Commander, U.S. Coast Guard Captain of the Port Pittsburgh.*

[FR Doc. 2011-12281 Filed 5-18-11; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 110311192-1279-02]

RIN 0648-BA01 and 0648-BA95

#### Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Biennial Specifications and Management Measures

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; Pacific whiting harvest specifications and tribal allocation.

**SUMMARY:** This final rule establishes the 2011 fishery harvest specifications for Pacific whiting in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California, as authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). These specifications include the overfishing level (OFL), catch limits, and allocations for the non-tribal commercial sectors.

This final rule also announces the tribal allocation of Pacific whiting for 2011.

**DATES:** This rule is effective May 16, 2011, and is applicable beginning May 15, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Kevin C. Duffy (Northwest Region, NMFS), *phone:* 206-526-4743, *fax:* 206-526-6736 and *e-mail:* kevin.duffy@noaa.gov.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register's Web site at <http://www.gpoaccess.gov/fr/index.html>. Background information and documents are available at the Pacific Fishery Management Council's Web site at <http://www.pcouncil.org/>.

Copies of the final environmental impact statement (FEIS) for the 2011-2012 Groundfish Specifications and Management Measures are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, *phone:* 503-820-2280.

Copies of additional reports referred to in this document may also be obtained from the Council. Copies of the Record of Decision (ROD), final regulatory flexibility analysis (FRFA), and the Small Entity Compliance Guide are available from William W. Stelle, Jr., Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, Seattle, WA 98115-0070.

##### Background

On November 3, 2010, NMFS published a proposed rule to implement the 2011-2012 specifications and management measures for the Pacific Coast groundfish fishery (75 FR 67810). A final rule was published on May 11, 2011 (76 FR 27508) that responded to public comments and codified the specifications and management measures in the CFR (50 CFR part 660, subparts C through G), except for the final Pacific whiting harvest specifications because the information necessary for the annual updated stock assessment for Pacific whiting was not available until January or February, which necessarily delays the preparation of the stock assessment until February.

Due to the inability to establish the final Pacific whiting harvest specifications during the preparation of the proposed and final rules, both rules announced a range of Pacific whiting harvest specifications that were being considered for 2011 and 2012, and also

announced the intent to adopt final specifications for whiting on an annual basis after the Council's March 2011 and 2012 meetings. Because the stock assessment is now available, this final rule establishes the 2011 harvest specifications for Pacific whiting. The Council's adoption of Pacific whiting harvest specifications in March is consistent with the U.S.-Canada agreement for Pacific whiting. The U.S.-Canada agreement for Pacific whiting was signed in November 2003. This agreement addresses the conservation, research, and catch sharing of Pacific whiting. Presently, both countries are taking steps to fully implement the agreement. Until full implementation occurs, the negotiators recommended that each country apply the agreed-upon provisions to their respective fisheries. In addition to the time frame in which stock assessments are to be considered and harvest specifications established, the U.S.-Canada agreement specifies how the catch is to be shared between the two countries. The Pacific whiting catch sharing arrangement provides 73.88 percent of the coastwide total catch to the U.S. fisheries, and 26.12 percent to the Canadian fisheries. This action accounts for this division of catch share allocation between the U.S. and Canada.

This final rule also establishes the tribal allocation of Pacific whiting for 2011. NMFS issued a proposed rule for the allocation and management of the 2011 tribal Pacific whiting fishery on April 5, 2011 (75 FR 18709). This action finalizes the allocation and management measures published in the April 5, 2011 proposed rule. A summary of the comments received during the comment period and NMFS' responses are provided below.

##### Pacific Whiting Stock Status

The joint U.S.-Canada Stock Assessment Review (STAR) panel met February 7-11, 2011, in Seattle, Washington to review a draft stock assessment (Stewart *et al.*, 2011) that had been prepared by the joint Canada-U.S. stock assessment team (STAT). Two draft stock assessment models were evaluated by the STAT: One prepared by Stewart (Stock Synthesis III model, 2011) and a second prepared by Martell (TINSS, 2011). The Joint STAT and STAR Panel discussed features of the new TINSS and SS base models. Specifically, comparisons of the updated TINSS and SS model revealed that: (1) Agreement in fit to the acoustic survey biomass was better between the models than in previous years; (2) there was a closer alignment in the spawning biomass trajectories and their associated