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Legal Division

John C. Bollman, Director

CERTIFICATE OF APPROVAL

I hereby certify that the Legislative Service Bureau has examined the attached proposed emergency rules of the Department of Natural Resources, dated May 23, 2018, entitled "Establishment of Restricted Anchor and Vessel Equipment Zone in the Straits of Mackinac," and further certify that, pursuant to section 45 of 1969 PA 306, MCL 24.245, the Legislative Service Bureau approves the rules as to form, classification, and arrangement.

Dated: May 23, 2018

LEGISLATIVE SERVICE BUREAU

By Marge Martin
Marge Martin,
Michigan Law Compiler

DEPARTMENT OF NATURAL RESOURCES

LAW ENFORCEMENT DIVISION

ESTABLISHMENT OF RESTRICTED ANCHOR AND VESSEL EQUIPMENT ZONE
IN THE STRAITS OF MACKINAC

EMERGENCY RULE

Filed with the Secretary of State on

This rule takes effect upon filing with the Secretary of State and shall remain in effect for 6 months.

(By the authority conferred on the Department of Natural Resources by section 80121 of 1994 PA 451, MCL 324.80121)

FINDING OF EMERGENCY

The Department of Natural Resources promulgates these rules to establish a restricted anchor and vessel equipment zone in the Straits of Mackinac applicable to vessels under the authority of Part 801, Marine Safety, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. The Department of Natural Resources finds that the use of anchors or other vessel equipment that may contact the bottomlands in the Straits of Mackinac by vessels as defined in MCL 324.80104(r) poses a threat to public health, safety, or welfare to the citizens and the environment of the state of Michigan due to the likelihood that such equipment may strike and damage critical infrastructure located on the lake bottomlands.

For example, on April 1, 2018, a vessel passed through the Straits of Mackinac with an anchor deployed and dragging along the bottomlands. The vessel's anchor struck and dented two oil pipelines located on the bottomlands of the Straits, and then struck and damaged three active underwater electric cables and an abandoned electrical cable. The anchor strike caused a breach of two active electric cables, releasing dielectric fluid containing mineral oil and benzene, among other constituents, into the waters of the Straits of Mackinac. Both the mineral oil and benzene may cause adverse environmental effects and benzene is acutely toxic to aquatic life. Other critical infrastructure on the bottomlands in the Straits likewise transport materials that, if released into the Great Lakes, would have adverse effects on the environment and public health, safety, or welfare.

The possibility of future similar anchor or other equipment strikes to the infrastructure on the bottomlands in the Straits of Mackinac poses a significant and unacceptable risk to Michigan's environment. In addition to the potential for environmental damage, any release could threaten public water supplies or create an energy shortage that threatens the public health, safety, or welfare.

The Department of Natural Resources, therefore, finds promulgation of emergency rules to regulate vessels' use of anchors and other equipment that may contact the bottomlands in designated areas in the Straits of Mackinac is required without following the notice and participation procedures

May 23, 2018

required by sections 41, 42, and 48 of 1969 PA 306, as amended, MCL 24.241, MCL 24.242, and MCL 24.248 of the Michigan Compiled Laws.

Rule 1. Except in cases of emergency or with prior written permission granted by the director of the department of natural resources, a vessel shall not deploy, drag, set, or use any anchor or any other vessel equipment that may come into contact with the lake bottomlands in the area bounded on the west by a line beginning at Latitude N 45° 46' 48.883" Longitude W 84° 47' 34.705" and extending north to point Latitude N 45° 50' 23.169" Longitude W 84° 46' 8.476" and bounded on the east by a line beginning at Latitude N 45° 47' 18.4812" Longitude W 84° 43' 55.2396" and extending north to point Latitude N 45° 50' 46.086" Longitude W 84° 43' 24.1392."

Rule 2. Permission for use of an anchor or other vessel equipment that may contact the bottomlands in the area described in Rule 1 may be requested by writing to the department of natural resources at:

Director of the Department of Natural Resources
525 West Allegan Street
P.O. Box 30028
Lansing, MI 48909-7528

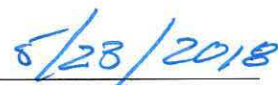
or by e-mailing DNR-Director@michigan.gov. Such request should contain a precise description of the area where use of an anchor or other equipment is requested and the reason for the request.

Rule 3. Rule 1 does not apply to vessels exercising tribal usufructuary rights reserved in the March 28, 1836 Treaty of Washington (7 Stat. 491) and as stated in the November 2, 2007 Consent Decree (Dkt. 1799 in W.D. Mich. Case No. 2:73-cv-000026).

MICHIGAN DEPARTMENT OF NATURAL RESOURCES



Keith Creagh
Director



Date

Pursuant to Section 48(1) of 1969 PA 306, as amended, MCL 24.248(1), I hereby concur in the finding of the Department of Natural Resources that circumstances creating an emergency have occurred and the public interest requires the promulgation of the above rule.

Governor

Date