

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 117**

[CGD01-04-091]

Drawbridge Operation Regulations: Raritan River, NJ**AGENCY:** Coast Guard, DHS.**ACTION:** Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the New Jersey Transit Rail Operations (NJTRO) Bridge, at mile 0.5, across the Raritan River, at Perth Amboy, New Jersey. Under this temporary deviation the bridge may remain in the closed position from 10 p.m. on July 30, 2004, through 10 a.m. on July 31, 2004, in order to perform scheduled bridge maintenance. An alternate date, in case of inclement weather, shall be from 10 p.m. on August 6, 2004, through 10 a.m. on August 7, 2004.

DATES: This deviation is effective from July 30, 2004, through August 7, 2004.**FOR FURTHER INFORMATION CONTACT:** Joe Arca, Project Officer, First Coast Guard District, at (212) 668-7165.**SUPPLEMENTARY INFORMATION:**

The NJTRO Bridge has a vertical clearance in the closed position of 8 feet at mean high water and 13 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.747.

The bridge owner, New Jersey Transit Rail Operations (NJTRO), requested a temporary deviation from the drawbridge operation regulations to facilitate necessary scheduled bridge maintenance. The bridge must remain in the closed position during the performance of these repairs.

Therefore, under this temporary deviation the NJTRO Bridge may remain in the closed position from 10 p.m. on July 30, 2004, through 10 a.m. on July 31, 2004.

An alternate date, in case of inclement weather, shall be from 10 p.m. on August 6, 2004, through 10 a.m. on August 7, 2004.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: July 14, 2004.

David P. Pekoske,*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 04-16837 Filed 7-22-04; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[CGD01-04-046]

RIN 1625-AA00

Safety Zone; Democratic Governors Association Fireworks Display—Boston, MA**AGENCY:** Coast Guard, DHS.**ACTION:** Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Democratic Governors Association Fireworks Display on July 26, 2004 in Boston, MA, temporarily closing all waters of Boston Inner Harbor within a 400 yard radius of the fireworks barge. This action is necessary to protect the public from hazards posed by a fireworks display. The safety zone prohibits entry into or movement within this portion of Boston Inner Harbor during the closure period.

DATES: This rule is effective from 10 p.m. until 11 p.m. e.d.t. on July 26, 2004.**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01-04-046 and are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between 9 a.m. and 3 p.m. Monday through Friday, except Federal holidays.**FOR FURTHER INFORMATION CONTACT:** Chief Petty Officer Daniel Dugery, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223-3000.**SUPPLEMENTARY INFORMATION:****Regulatory Information**

The Coast Guard did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Information on the fireworks display was not supplied to the Coast Guard in sufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to

public interest since the safety zone is needed to prevent traffic from transiting a portion of Boston Harbor, Massachusetts during the fireworks event and to provide for the safety of life on navigable waters. Additionally, the zone will have a negligible impact on vessel transits due to the fact that vessels will be limited from the area for only one hour, and vessels can still transit in other areas in the majority of Boston Harbor during the event.

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**. Any delay encountered in this regulation's effective date would be contrary to public interest since the safety zone is needed to prevent traffic from transiting a portion of Boston Harbor, Massachusetts during the fireworks event and to provide for the safety of life on navigable waters. Additionally, the zone should have a negligible impact on vessel transits due to the fact that vessels will be limited from the area for only one hour, and vessels can still transit in other areas in the majority of Boston Harbor during the event.

Background and Purpose

This regulation establishes a safety zone in Boston Inner Harbor within a 400-yard radius of the fireworks barge located at position 42°22.263" N, 071°02.956" W. The safety zone is in effect from 10 p.m. until 11 p.m. on July 26, 2004.

The zone restricts movement within this portion of Boston Inner Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic may transit safely outside of the safety zone during the effective periods. The Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via safety marine information broadcasts and local notice to mariners.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone for the Democratic Governors Association Fireworks Display on July 26, 2004 in Boston, MA, temporarily closing all waters of Boston Inner Harbor within a 400-yard radius of the fireworks barge located at approximate position 42°22.263" N, 071°02.956" W. This action is necessary to protect the public from hazards posed by a fireworks display. The safety zone prohibits entry into or movement within this portion of

Boston Inner Harbor during the closure period.

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 the regulatory policies and procedures of DHS is unnecessary.

Although this regulation prevents traffic from transiting a portion of Boston Inner Harbor during the effective period, the effects of this regulation will not be significant for several reasons: that vessels will be restricted from the area for only a minimal time period, vessels may safely transit outside of the safety zone, and advance notifications which will be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard 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 Boston Inner Harbor on July 26, 2004. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: vessel traffic can safely pass outside of the safety zone during the effective period, the period is limited in duration, and advance notifications will be made to the local maritime community by safety marine information broadcasts and local notice to mariners.

Assistance for Small Entities

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will 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.

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 does not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule does 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

The Coast Guard 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 pose 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 Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

A draft “Environmental Analysis Check List” and a draft “Categorical Exclusion Determination” are available in the docket where indicated under

ADDRESSES. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

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. Temporarily add § 165.T01–046 to read as follows:

§ 165.T01–046 Safety Zone: Democratic Governors Association Fireworks Display—Boston, Massachusetts.

(a) *Location.* The following area is a safety zone:

All waters of Boston Inner Harbor within a 400-yard radius of the fireworks barge located at position 42°22.263" N, 071°02.956" W.

(b) *Effective date.* This section is effective from 10 p.m. until 11 p.m. on July 26, 2004.

(c) *Regulations.*

(1) In accordance with the general regulations in section 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston (COTP).

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene US Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and Federal law enforcement vessels.

Dated: July 15, 2004.

Brian M. Salerno,

Captain, U. S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 04–16831 Filed 7–20–04; 2:56 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–04–081]

RIN 1625–AA00

Safety Zone: Time Warner Cable Fireworks—Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Time Warner Cable Fireworks in Boston, MA, temporarily closing all waters of Boston Inner Harbor within a 400 yard radius of the fireworks barge. This action is necessary to protect the public from hazards posed by a fireworks display. The safety zone prohibits entry into or movement within this portion of Boston Inner Harbor during the closure period.

DATES: This rule is effective from 10:30 p.m. on July 25, 2004, until 12 a.m. on July 26, 2004.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–04–081 and are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between 9 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Daniel Dugery, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223–3000.

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), the Coast Guard finds that good cause exists for not publishing an NPRM. Information on the fireworks display was not supplied to the Coast Guard in sufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since the safety zone is needed to prevent traffic from transiting a portion of Boston Harbor, Massachusetts during the fireworks event and to provide for the safety of life on navigable waters. Additionally, the zone will have a negligible impact on vessel transits due to the fact that vessels will only be limited from the area for 1.5 hours, and vessels can still transit in other areas in

the majority of Boston Harbor during the event.

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**. Any delay encountered in this regulation's effective date would be contrary to public interest since the safety zone is needed to prevent traffic from transiting a portion of Boston Harbor, Massachusetts during the fireworks event and to provide for the safety of life on navigable waters. Additionally, the zone should have a negligible impact on vessel transits due to the fact that vessels will only be limited from the area for 1.5 hours, and vessels can still transit in other areas in the majority of Boston Harbor during the event.

Background and Purpose

This regulation establishes a safety zone in Boston Inner Harbor within a 400-yard radius of the fireworks barge located at position 42°21.616 N, 071°02.717 W. The safety zone will be in effect from 10:30 p.m. on July 25, 2004, until 12 a.m. on July 26, 2004.

The zone restricts movement within this portion of Boston Inner Harbor and is needed to protect the maritime public from the dangers posed by a fireworks display. Marine traffic can transit safely outside of the safety zone during the effective period. The Captain of the Port anticipates minimal negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via safety marine information broadcasts and local notice to mariners.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone for the Time Warner Cable Fireworks Display on July 25, 2004 in Boston, MA, temporarily closing all waters of Boston Inner Harbor within a 400 yard radius of the fireworks barge located at approximate position 42°21.616 N, 071°02.717 W. This action is necessary to protect the public from hazards posed by a fireworks display. The safety zone prohibits entry into or movement within this portion of Boston Inner Harbor during the closure period.

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