

Friday, except Federal holidays. The telephone number is 504-589-2965. The Bridge Administration Branch, Eighth District, maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** David Frank, Bridge Administration Branch, telephone (504) 589-2965.

**SUPPLEMENTARY INFORMATION:** The Louisiana Department of Transportation and Development has requested a temporary deviation in order to replace the grid decking of the bridge. These repairs are necessary for the continued operation of the bridge. This deviation allows the draw of the SR 1 bridge to remain closed to navigation from 7 a.m. until 11 a.m. and from noon until 4 p.m. daily from Monday, February 3, 2003 through Wednesday, February 12, 2003.

The vertical lift bridge has a vertical clearance of 3 feet above high water in the closed-to-navigation position. The bridge normally opens to pass navigation an average of 472 times a month. In accordance with 33 CFR 117.465(a), the draw of the bridge opens on signal; except that, from 2:30 p.m. to 3:30 p.m. and from 4:30 p.m. to 5:30 p.m., Monday through Friday, except Federal holidays, the draw need not open for the passage of vessels. The bridge will not be able to open for emergencies during the closure period as the weight disparity during the repairs will not allow for the safe operation of the bridge. Navigation on the waterway consists mainly of fishing vessels and some tugs with tows. An alternate route is available to these vessels by entering Bayou Lafourche from the Gulf Intracoastal Waterway.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 9, 2003.

**Marcus Redford,**

*Bridge Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 117

[CGD08-02-043]

RIN 2115-AE47

#### Drawbridge Operation Regulation; Mississippi River, Burlington, IA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** The Coast Guard published a final rule on December 27, 2002, temporarily changing the regulation governing the Burlington Railroad Drawbridge, Mile 403.1, Upper Mississippi River. The section number for the temporary change was incorrect. This document corrects the section number for the temporary change.

**DATES:** This correction is effective January 22, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roger K. Wiebusch, Eighth Coast Guard District Bridge Branch, Bridge Administrator, (314) 539-3900, extension 2378.

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose

The Coast Guard published a temporary rule in the **Federal Register** on December 27, (67 FR 78977), adding section 117.T408.

##### Need for Correction

As published, the section number used in the regulatory text was incorrect.

##### Correction of Publication

In rule FR Doc. 02-32723 published on December 27, 2002 (67 FR 78977) make the following correction. On page 78978, in the third column, in amendatory instruction 2 and the subsequent section heading, change "117.T408" to read "117.T409"

Dated: January 13, 2003.

**Roy J. Casto,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 03-1351 Filed 1-21-03; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD05-02-102]

RIN 2115-AE84

#### Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** Commander, Fifth Coast Guard District is temporarily expanding the geographic definition of the Hampton Roads Regulated Navigation Area to include the waters of the 12

nautical mile territorial sea off the Coast of Virginia and by adding new port security measures, in order to improve the safety and security of vessel traffic at the entrance to Chesapeake Bay and Hampton Roads, Virginia. The effect of this temporary rule will be to ensure the safety and security of the boating public, local military commands, and commercial shipping interests in the area.

**DATES:** This temporary final rule is effective from December 20, 2002 to June 15, 2003.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Norfolk, Virginia 23510 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Monica Acosta, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 441-3453.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation and the rule takes effect immediately. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Immediate action is necessary to ensure the safety and security of the public, naval vessels moored at Naval Station Norfolk, and the commercial shipping industry in Hampton Roads, VA. There have been recent reports, all a matter of public record, that indicate a continuing high risk of terrorist activity in the United States. Based on these reports, the Fifth Coast Guard District Commander has determined a heightened security condition in the Port of Hampton Roads is required. Delay in implementing these changes, therefore, would be contrary to the public interest.

For similar reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**.

##### Background and Purpose

This temporary rule is necessary for the District Commander to reduce the potential threat to the Port of Hampton Roads, VA and surrounding waterways. The Coast Guard, as lead federal agency for maritime homeland security, must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression,

and attacks by terrorists on the American homeland while at the same time maintaining our freedoms and sustaining the flow of commerce. The Coast Guard implements Limited Access Areas, listed in 33 CFR part 165, in order to control vessel movements within Captain of the Port Zones. A Regulated Navigation Area is a type of Limited Access Area that may be used to control vessel traffic by specifying times of vessel entry, movement, or departure to, from, within, or through ports, harbors or other waters. The temporary rule the District Commander has established by this rulemaking allows for differentiation between lawful and unlawful maritime activities without unreasonably disrupting the free flow of commerce.

The District Commander has created a series of validation procedures to identify legitimate users of the Port of Hampton Roads. Validation procedures for vessels in excess of 300 GT, including tug and barge combinations in excess of 300 gross tons combined, include the following:

1. Vessels must check in with the Captain of the Port or his representative at least thirty minutes prior to entry to obtain permission to transit the Regulated Navigation Area.

2. Upon authorization and approval by the Captain of the Port or his representative, the vessel may enter the Regulated Navigation Area.

3. All vessels that receive permission to enter the Regulated Navigation Area remain subject to a Coast Guard port security boarding.

4. Thirty minutes prior to getting underway, vessels departing or moving within the Regulated Navigation Area must contact the Captain of the Port or his representative via VHF-FM channel 13 or 16, call (757) 444-5209/5210, or call (757) 441-3298 for the Captain of the Port Command Duty Officer.

The Captain of the Port will notify the public of changes in the status of the port security requirements by marine information broadcast on VHF-FM marine band radio, channel 22A (157.1 MHz)

### Regulatory Evaluation

This temporary final 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. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This

temporary final rule will affect only those vessels in excess of 300 GT that enter and depart the Port of Hampton Roads and it is implemented for a limited duration. Therefore, we expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this temporary rule will have a significant economic impact on a substantial number of small entities. "Small entities" include 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. section 605(b) that this temporary rule will not have a significant economic impact on a substantial number of small entities. This temporary rule will affect only the following entities, some of which may be small entities: owners and operators of commercial vessels larger than 300 gross tons intending to transit or anchor in the Regulated Navigation Area. Because the number of small entities owning/operating commercial vessels of this size is not substantial, the rule is for a limited duration, and there is little anticipation of delay when requesting entry into the Area, the economic impact of this temporary rule should be minimal.

If, however, you believe that your business or organization qualifies as a small entity and that this temporary rule will have a significant economic impact on your business or organization, please submit a comment (*see ADDRESSES*) explaining why you believe it qualifies and in what way and to what degree this temporary rule will economically affect it.

### 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).

### Collection of Information

This temporary rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### 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 temporary rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates

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

### Taking of Private Property

This temporary 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 temporary 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 temporary rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This temporary 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 temporary 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 temporary 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

The Coast Guard considered the environmental impact of this temporary final rule and concluded that under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.IC, this temporary final rule is categorically excluded from further environmental documentation. This temporary rule seeks to modify a well-established Regulated Navigation Area, and will be in effect for 6 months. A "Categorical Exclusion Determination" is available in the docket for inspection or copying 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 1231; 50 U.S.C 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. From December 20, 2002, until June 15, 2003, in § 165.501, temporarily suspend paragraph (a)(1) and add new

paragraphs (a)(13), (d)(15) and (d)(16) to read as follows:

#### 165.501 Chesapeake Bay entrance and Hampton Roads, VA and adjacent waters-regulated navigation area.

(a) \* \* \*

(1) A line drawn due east from the mean low water mark at the North Carolina/Virginia border at latitude 36°33'03" N, longitude 75°52'00" W, to the Territorial Seas boundary line at latitude 36°33'05" N, longitude 75°36'51" W, thence generally northeastward along the Territorial Seas boundary line to latitude 38°01'39" N, longitude 74°57'18" W, thence due west to the mean low water mark at the Maryland/Virginia border at latitude 38°01'39" N, longitude 75°14'30" W.

\* \* \* \* \*

(d) \* \* \*

(15) *Port Security Requirements.* No vessel in excess of 300 gross tons, including tug and barge combinations in excess of 300 gross tons (combined), shall enter the Regulated Navigation Area, move within the Area, or be present within the Area unless it complies with the following requirements.

(i) Obtain authorization to enter the Regulated Navigation Area from the Captain of the Port or his representative at least thirty minutes prior to entering the Regulated Navigation Area. All vessels entering or remaining in the Area may be subject to a Coast Guard boarding.

(ii) Follow all instructions issued by the Captain of the Port or his representative.

(iii) Ensure that no person who is not a permanent member of the vessel's crew, or a member of a Coast Guard boarding team, boards the vessel without presenting valid photo identification.

(iv) Report any departure from or movement within the Regulated Navigation Area to the Captain of the Port or his representative at least 30 minutes prior to getting underway.

(v) Contact the Captain of the Port or his representative on VHF-FM channel 13 or 16, or by calling (757) 444-5209, (757) 444-5210, or (757) 441-3298

(vi) In addition to the authorities listed in this part, this paragraph is promulgated under the authority under 33 U.S.C. 1226.

(16) For purposes of the port security requirements in paragraph (d)(15) of this section, the *Captain of the Port or his representative* means any official designated by the Captain of the Port including, but not limited to, any Coast Guard patrol vessel. All patrol vessels

shall display the Coast Guard Ensign at all times when underway.

\* \* \* \* \*

Dated: December 20, 2002.

**J. D. Hull,**

*Vice Admiral, Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 03-1008 Filed 1-21-03; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-02-132]

**RM 2115-AA97**

#### Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent safety and security zones around the Indian Point Nuclear Power Station (IPNPS), all commercial waterfront facilities, Liquefied Hazardous Gas (LHG) Facilities on the Arthur Kill; moored or anchored U.S. Coast Guard vessels; Coast Guard Stations New York, Sandy Hook, and Kings Point and Aids to Navigation Team New York; Ellis and Liberty Islands; all bridge piers and abutments, and overhead power cable towers, piers and abutments; tunnel ventilators; the New York City Passenger Ship Terminal; a moving safety and security zone around "Designated Vessels" (DVs) deemed by the Captain of the Port to require special protection on account of their hazardous cargo or passenger carrying capacity; and revising the current regulations that establish moving safety zones around Liquefied Petroleum Gas vessels. This action is necessary to safeguard facilities, vessels, public, and the surrounding areas from sabotage, subversive acts, or other threats. The zones will prohibit entry into or movement within these areas without authorization from the Captain of the Port New York.

**DATES:** This rule is effective January 1, 2003.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket (CGD01-02-132) and are available for inspection or copying at room 204, Coast Guard Activities New