

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.ID, 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 (32)(e), of the Instruction, from further environmental documentation. This final rule involves modifying the existing drawbridge operation regulation for a benefit of all modes of transportation. It will not have any impact on the environment.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

■ For the reasons set out in the preamble, the Coast Guard is amending part 117 of title 33, Code of Federal Regulations as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. In § 117.451, paragraph (c) is revised to read as follows:

#### § 117.451 Gulf Intracoastal Waterway.

\* \* \* \* \*

(c) The draw of the SR 315 (Bayou Dularge) bridge, mile 59.9 west of Harvey Lock, at Houma, shall open on signal; except that, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 6:30 a.m. to 8:30 a.m., from 11:45 a.m. to 12:15 p.m., from 12:45 p.m. to 1:15 p.m. and from 4:30 p.m. to 6 p.m.

\* \* \* \* \*

Dated: April 8, 2005.

**R.F. Duncan,**

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

[FR Doc. 05-7900 Filed 4-19-05; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 162

[CGD17-99-002]

**RIN 1625-AA23 (Formerly RIN 2115-AF81)**

#### **Anchorage Ground; Safety Zone; Speed Limit; Tongass Narrows and Ketchikan, AK**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts, without changes, the interim rule published on April 7, 2000, which changed the speed limit in Tongass Narrows. This final rule extends the speed limit area northward in Tongass Narrows to Channel Island, allows the take-off and landing of floatplanes, and allows smaller vessels to transit crowded areas to Tongass Narrows more quickly, relieving congestion. This final rule also re-designates the safety zone in Ketchikan Harbor as an anchorage ground. Vessels transiting the anchorage ground, other than those engaged in anchoring evolutions are required to proceed through the anchorage by the most direct route without delay or sudden course change. The new rule makes the final approach, anchoring, and departure of very large passenger vessels, safer for the vessels involved.

**DATES:** This rule is effective May 20, 2005.

**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 the docket and are available for inspection or copying at U.S. Coast Guard Marine Safety Office, Juneau,

Alaska, telephone 907-463-2470, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Gary Koehler, Chief of Port Operations, Marine Safety Office, Juneau, Alaska, 907-463-2470.

### SUPPLEMENTARY INFORMATION:

#### Regulatory History

On March 25, 1999, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Anchorage ground, safety zone, speed limit, Tongass Narrows and Ketchikan, AK" in the **Federal Register** (64 FR 14414). The Coast Guard received 8 letters, including two petitions, regarding the proposed rule during a 45-day comment period. A public hearing was held on March 26th at the Ted Ferry Civic Center in Ketchikan, AK.

On June 1, 1999 an interim rule was published entitled "Anchorage Ground, Safety Zone, Speed Limit, Tongass Narrows and Ketchikan, AK" in the **Federal Register** (64 FR 29554). A correction was issued on June 15, 1999 in the **Federal Register** (64 FR 32103).

On April 7, 2000 a revised interim rule was published entitled "Anchorage Ground, Safety Zone, Speed Limit, Tongass Narrows and Ketchikan, AK" in the **Federal Register** (65 FR 18242). On October 21, 2003 a Notice to Reopen Comment Period was published in the **Federal Register** (68 FR 60034).

#### Background and Purpose

During 1999 and 2000 the Coast Guard and the Federal Aviation Administration held a series of public meetings in Ketchikan, Alaska, to assess maritime traffic, congestion, safety, and wake concerns in Tongass Narrows. The individuals and groups represented at these meetings included recreational vessel operators, passenger vessel operators, commercial fishing vessel operators, commercial kayak operators, floatplane operators, charter vessel operators, and local residents.

The Notice of Proposed Rulemaking proposed changes to the seven-knot speed limit on Tongass Narrows. The existing speed limit did not address the needs of floatplane traffic, may have unnecessarily slowed the transits of smaller vessels, and did not apply in the northern portions of Tongass Narrows where traffic congestion and wake from larger vessels had become a concern. The proposed changes extended the speed zone northward to Channel Island, but exempted vessels of 26 feet or less in length.

The Notice of Proposed Rulemaking also proposed to re-designate the safety

zone in Ketchikan Harbor as an anchorage ground. Vessels transiting the anchorage ground other than those engaged in anchoring evolutions would be required to proceed through the anchorage by the most direct route without delay or sudden course changes. The re-designation of the area would reflect its actual use as an anchorage for large passenger vessels. The slow or erratic operation of small vessels in the former safety zone has made it very difficult for large vessels to safely maneuver to and from anchor. The requirement that transiting vessels proceed through the anchorage directly, without delay or sudden course changes, would make the final approach, anchoring, and departure of very large passenger vessels, safer for the vessels involved.

The interim rule published in 1999 revised the safety zone in Ketchikan Harbor as well as the 7-knot speed limit in Tongass Narrows. It re-designated the safety zone in Ketchikan Harbor as an anchorage ground and required transiting vessels, other than those engaged in anchoring evolutions, to proceed through the anchorage by the most direct route without delay or sudden course changes.

The interim rule published in 2000 revised the published 1999 interim rule by extending the speed limit exemption to include all small vessels of 23 feet or less, registered length. This change allowed an increased number of small vessels that create little wake to transit crowded areas of Tongass Narrows more quickly, thereby relieving congestion.

#### Discussion of Comments and Changes

The Coast Guard received comments from 21 persons regarding the 1999 interim rule. The comments included oral comments made at the August 27th, 1999 public meeting and four letters. No comments were received concerning the anchorage area and this portion of the interim rule remains unchanged. Numerous comments criticized the speed limit exemption for being unnecessarily restrictive. Responses to these comments on the 1999 interim rule are discussed in the following paragraphs.

The most frequent comments addressed the exemption for "non-commercial open skiffs." Of the 21 persons that commented on the 1999 interim rule (several persons commented on multiple aspects), 10 commented on this exemption, stating that the term "non-commercial, open skiff" created confusion as to when a vessel was considered "open" vice enclosed. The Coast Guard agreed and

the term "non-commercial, open skiff" was removed.

Nine comments were received concerning the vessel length exemption from the 7-knot speed limit based on vessel length of less than 20 feet. Seven of the comments favored increasing the size of vessels exempted to 26 feet and one favored increasing the size to 25 feet. Two comments favored keeping the size of vessel exempted from the 7-knot speed limit at 20 feet or less. Additionally, five comments favored an exemption for non-displacement hull vessels. The Coast Guard agreed that the 20-foot vessel length exemption could be increased without adversely affecting the safety of the waterway and without causing a significant increase in vessel wakes. However, numerous comments that were received as a result of the notice of proposed rulemaking concerned the impact of any rule that split the charter fishing vessel fleet. Commenters were concerned that such a split would provide an unfair economic advantage to certain portions of the charter fishing vessel fleet. According to data obtained by the Coast Guard from the State of Alaska Commercial Fisheries Entry Commission, there are 167 charter vessels that routinely operate in and around Tongass Narrows. This data, which is depicted in the following table, indicates:

TABLE 1.—NUMBERS OF CHARTER VESSELS THAT ROUTINELY OPERATE ON TONGASS NARROWS

Size of charter/vessels	Percent of No. of vessels	Total No.
20 feet .....	15	9
21–23 feet .....	12	7.2
24–25 feet .....	18	10.8
26 feet .....	122	73

**Note:** This table reflects the adjusted number of charter vessels that are registered as operating out of Tongass Narrows. The numbers have been adjusted to remove those vessels that are home ported in areas other than Ketchikan or Metlakatla or that are located at outlying lodges and could not reasonably be expected to participate in the daily charters out of Tongass Narrows (*i.e.* vessels home ported in Craig, AK or operating out of Yes Bay Lodge, etc.) that the length limit for vessels exempted from the seven knot speed limit could be set at 23 feet with the expectation that any economic impacts to the charter fleet would be minimal due to the small number of additional (12) charter vessels exempted from this regulation. The Coast Guard disagreed with the five comments favoring exemption for planning hull vessels from the seven-knot speed limit. An exemption based on hull

type would be very difficult to enforce due to the variety of hull types and nomenclature and possible confusion within the maritime community. For this reason, an exemption based on hull type was not instituted. Three persons commented on the southern boundaries of the seven-knot speed limit. One comment stated that the eastern channel boundary should be extended to the south to the Saxman City breakwater. Two persons commented that the western channel boundary should be moved to the south, away from the cable crossing area. The Coast Guard disagreed that the eastern channel boundary should be extended. The eastern channel boundary was moved north in the 1999 interim rule in an effort to minimize the size of the seven-knot zone without increasing the impacts caused by vessel wakes to private property. Vessel transit time for vessels using the east channel has been reduced and there were no reports of wake damage to private property located along the waterway in the east channel. Therefore the eastern channel boundary remained unchanged.

One comment noted that the regulatory marker in the western channel should be located outside the cable crossing area. The published position of the western channel regulatory marker is outside of the charted cable crossing area. The buoy tender that services this buoy has checked the actual location of the regulatory marker. Two comments were received that favored extending the northern boundary of the seven-knot speed zone northward to Channel Island as a way to control wake damage to private and commercial property caused by large vessels transiting this area. The Coast Guard disagreed that the boundary should be extended any further than Tongass Narrows Buoy 9. The overwhelming majority of 129 comments received in 1998 favored a slight extension of the 7-knot speed limit zone but these comments did not support extending the zone as far north as Channel Island. In light of all comments received, the Coast Guard believed that the present northerly boundary of the 7-knot speed limit zone, located at Tongass Narrows Buoy 9, is appropriate and made no changes.

Two comments were received on making the speed limit seasonal to align with the summer tourist season. One facility operator stated that if the rule were made seasonal, it would increase the risk of a large wake parting a line on an oil barge during transfer operations, thereby potentially increasing the chances of an oil spill. During the entire rule making process, the majority of the comments favored the existence of the year round 7-knot rule. The consensus expressed was that if the 7-knot speed limit were seasonal, the risk on the waterway would not be reduced in the

off months and the amount of wake damage to private and commercial property on Tongass Narrows would most likely increase. The Coast Guard agreed that the rule should apply year around and made no changes.

One comment favored the creation of a high-speed traffic corridor through the middle of the waterway. Other commenters felt that creating a high-speed corridor would unreasonably increase the risk to vessels operating on Tongass Narrows. This proposal was not adopted. No comments were received concerning the 2000 interim rule, which revised the 1999 interim rule to reflect the above comments.

#### Discussion of the Change to the Final Rule

Since no comments were received concerning the proposed revisions to the 1999 interim rule as contained in the 2000 revised interim rule, the final rule shall adopt the language contained in the 2000 revised interim rule. By exempting "vessels of 23 feet registered length or less," the traffic congestion in the affected areas of Tongass Narrows should be eased and the safety of the small vessel operators enhanced. With the exemption for these small vessels, they will be able to depart from, or transit through the congested areas more quickly. This in turn should ease congestion and reduce navigational conflicts that have arisen from slow moving small boats and cruise ships and other large waterway users and will allow them to spend less time on the water during periods of inclement weather. Large wakes should not become a problem as the exemption is still limited to smaller vessels and because Tongass Narrows regularly experiences substantial wave action that is equivalent to the wake from these smaller vessels. The impacts to the charter fleet are considered minimal because the revised interim rule exempts only 12 of 152 charter vessels that are over 20 feet in length. The final rule retains the 7-knot speed limit for all other vessels except floatplanes and public law enforcement and emergency response vessels.

#### Regulatory Evaluation

The analysis we conducted in connection with the interim rule remains unchanged, and the Analysis Documentation prepared for the interim rule remains in the docket. This Final 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 (OMB) has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). Please consult the Regulatory Evaluation provided in the interim rule for further information.

#### List of Subjects in 33 CFR Part 162

Navigation (water), Waterways.

■ For the reasons discussed in the preamble, the Coast Guard adopts as final without further change the Interim Rule published on June 2, 1999 (64 FR 29554), and corrected on June 15, 1999 (64 FR 32103), and further revised on April 7, 2000 (65 FR 18242).

Dated: April 5, 2005.

**David W. Ryan,**

*Captain, U.S. Coast Guard, Commander, Seventeenth Coast Guard District, Acting.*  
[FR Doc. 05-7894 Filed 4-19-05; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD13-05-006]

#### Security and Safety Zone: Protection of Large Passenger Vessels, Portland, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement.

**SUMMARY:** The Captain of the Port Portland, OR will begin, on May 5, 2005, enforcing a small area of the greater Large Passenger Vessel Security and Safety Zones that were established in September 2003. The zones provide for the security and safety of large passenger vessels in the navigable waters of Portland, OR and adjacent waters. These security and safety zones will be enforced for passenger cruise ships only and only from the mouth of the Columbia River at buoy 14 upriver to, and including, Astoria, OR, until further notice.

**DATES:** This notice of enforcement for 33 CFR 165.1318 will be effective commencing May 5, 2005.

**FOR FURTHER INFORMATION CONTACT:** LT Tad Drozdowski, c/o Captain of the Port Portland, OR 6767 North Basin Avenue Portland, OR 97217 at (503) 240-9301 to obtain information concerning enforcement of this rule.

**SUPPLEMENTARY INFORMATION:** On September 12, 2003, the Coast Guard published a final rule (68 FR 53677)

establishing regulations in 33 CFR 165.1318 for the security and safety of large passenger vessels in the navigable waters of Portland, OR and adjacent waters of Oregon and Washington. These security and safety zones provide for the regulation of vessel traffic in the vicinity of certain large passenger vessels (as defined in § 165.1318 (b)) and exclude persons and vessels from the immediate vicinity of these large passenger vessels.

On May 5, 2005, for passenger cruise ships only, the Captain of the Port, Portland, OR will begin enforcing only the area of the Large Passenger Vessel Safety and Security Zones, which were established in 33 CFR 165.1318, from the mouth of the Columbia River at buoy 14 upriver to, and including, Astoria, OR. Entry into these zones is prohibited unless otherwise exempted or excluded under the final rule or unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other Federal, State, or local agencies in enforcing this security zone. These security and safety zones will be enforced until further notice.

Dated: April 7, 2005.

**Paul D. Jewell,**

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

[FR Doc. 05-7895 Filed 4-19-05; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[GU122-NBK; FRL-7888-4]

#### Revisions to the Territory of Guam State Implementation Plan, Update to Materials Incorporated by Reference

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is updating the materials submitted by the Territory of Guam that are incorporated by reference (IBR) into the Territory of Guam State Implementation Plan (SIP). The regulations affected by this update have been previously submitted by the territorial agency and approved by EPA. This update affects the SIP materials that are available for public inspection at the Office of the Federal Register (OFR), Office of Air and Radiation Docket and Information, and the Regional Office.