

(1) For method-based specifications individual pay items, lump sum payment, or a combination thereof may be used.

(2) For performance based specifications, applicable performance criteria and standards may be used (e.g., safety performance criteria such as number of crashes within the work zone; mobility performance criteria such as travel time through the work zone, delay, queue length, traffic volume; incident response and clearance criteria; work duration criteria).

(e) Responsible persons. The State and the contractor shall each designate a trained person, as specified in § 630.1008(d), at the project level who has the primary responsibility and sufficient authority for implementing the TMP and other safety and mobility aspects of the project.

#### **§ 630.1014 Implementation.**

Each State shall work in partnership with the FHWA in the implementation of its policies and procedures to improve work zone safety and mobility. At a minimum, this shall involve an FHWA review of conformance of the State's policies and procedures with this regulation and reassessment of the State's implementation of its procedures at appropriate intervals. Each State is encouraged to address implementation of this regulation in its stewardship agreement with the FHWA.

#### **§ 630.1016 Compliance Date.**

States shall comply with all the provisions of this rule no later than October 12, 2007. For projects that are in the later stages of development at or about the compliance date, and if it is determined that the delivery of those projects would be significantly impacted as a result of this rule's provisions, States may request variances for those projects from the FHWA, on a project-by-project basis.

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 100**

[CGD05-04-155]

RIN 1625-AA08

#### **Special Local Regulations for Marine Events; Hampton River, Hampton, VA**

AGENCY: Coast Guard, DHS.

**ACTION:** Notice of implementation of regulation.

**SUMMARY:** The Coast Guard is implementing the special local regulations at 33 CFR 100.508 during the Hampton Bay Days Festival to be held September 10-12, 2004, on the waters of the Hampton River at Hampton, Virginia. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the festival events. The effect will be to restrict general navigation in the regulated area for the safety of event participants, spectators and vessels transiting the event area.

**DATES:** 33 CFR 100.508 will be enforced from 12 p.m. e.d.t. on September 10, 2004 through 6 p.m. e.d.t. on September 12, 2004.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket CGD05-04-155 and are available for inspection or copying at Coast Guard Group Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, VA 23703-2199.

**FOR FURTHER INFORMATION CONTACT:** Chief Petty Officer Michael Bowling, at (757) 483-8521.

**SUPPLEMENTARY INFORMATION:** Hampton Bay Days, Inc. will sponsor the Hampton Bay Days Festival on September 10-12, 2004 on the Hampton River, Hampton, Virginia. The festival will include water ski demonstrations, personal watercraft and wake board competitions, paddle boat races, classic boat displays, fireworks displays and a helicopter rescue demonstration. A fleet of spectator vessels is expected to gather nearby to view the festival events. In order to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.508 will be enforced for the duration of the festival activities. Under provisions of 33 CFR 100.508, vessels may not enter the regulated area without permission from the Coast Guard Patrol Commander. Spectator vessels may enter and anchor in the special spectator anchorage areas if they proceed at slow, no wake speed. The Coast Guard Patrol Commander will allow vessels to transit the regulated area between festival events. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine

information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Dated: August 19, 2004.

**Ben R. Thomason, III,**

*Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.*

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## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

#### **33 CFR Part 117**

[CGD01-04-114]

#### **Drawbridge Operation Regulations: Fore River, ME**

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 Casco Bay Bridge, mile 1.5, across the Fore River between Portland and South Portland, Maine. This temporary deviation allows the bridge owner to require a four-hour advance notice for bridge openings from September 7, 2004 through November 5, 2004. Additionally, this deviation also allows the bridge to remain in the closed position, Monday through Friday, 9 p.m. to 5 a.m. from September 13, 2004 through October 1, 2004, and again, Monday through Friday, 6 a.m. to 6 p.m. from October 4, 2004 through October 22, 2004. This temporary deviation is necessary to facilitate structural modifications at the bridge.

**DATES:** This deviation is effective from September 7, 2004 through November 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** John McDonald, Project Officer, First Coast Guard District, at (617) 223-8364.

**SUPPLEMENTARY INFORMATION:** The bridge owner, Maine Department of Transportation, requested a temporary deviation from the drawbridge operating regulations to facilitate structural modifications designed to improve reliability of the operating system at the bridge. The Coast Guard coordinated these requested closures with the mariners that normally use this waterway in order to minimize any disruption to the marine transit system.

Under this temporary deviation a four-hour advance notice for bridge openings shall be required from September 7, 2004 through November 5,

2004. Additionally, the bridge may also remain in the closed position, Monday through Friday, 9 p.m. to 5 a.m. from September 13, 2004 through October 1, 2004, and again, Monday through Friday, 6 a.m. to 6 p.m. from October 4, 2004 through October 22, 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: August 25, 2004.

**David P. Pekoske,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05-04-170]

RIN 1625-AA00

#### Safety Zone; Delaware River

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone from the north end of Pier 80 to the south end of Pier 84. The safety zone extends 50 yards eastward from the pier faces to the channel in the Delaware River, Philadelphia, PA. The temporary safety zone prohibits persons or vessels from entering within 50 yards from the north end of Pier 80 to the south end of Pier 84 on the Delaware River, unless authorized by the Captain of the Port Philadelphia, PA or designated representative. This safety zone is necessary to provide for the safety of life, property and to facilitate commerce.

**DATES:** This section is effective from August 26, 2004, to October 1, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-04-170 and are available for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania, 19147, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Lieutenant Junior Grade Kevin Sligh or Ensign Jill Munsch, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271-4889.

## 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) and (d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to public interest, since immediate action is needed to protect mariners against potential hazards associated with debris on the Delaware River.

### Background and Purpose

On August 20, 2004, at 12:15 p.m. approximately 200 linear feet of Pier 80's eastern seawall collapsed into the Delaware River depositing debris into the western edge of the navigable channel. On August 25, 2004, at 5 p.m. approximately 90 linear feet of Pier 84's north apron was deposited into the Delaware River.

The purpose of this regulation is to promote maritime safety, and to protect the environment and mariners transiting the area from submerged objects and debris. Mariners should be aware that barges will be on site for the duration of the debris removal. This rule establishes a safety zone, from the north end of Pier 80 to the south end of Pier 84 extending 50 yards out into the channel of the Delaware River in Philadelphia, PA. Mariners traveling in the vicinity of the safety zone should maintain a minimum safe speed, in accordance with the Navigation Rules as seen in 33 CFR Chapter I, Subchapters D and E. The safety zone will protect mariners transiting the area from the potential hazards associated with debris in the Delaware River. The Captain of the Port will notify the maritime community, via marine broadcasts, while the safety zone is enforced.

### Regulatory Evaluation

This temporary 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.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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 section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant impact on a substantial number of small entities. If you think your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would 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 effect it.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this 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 (1-888-743-3247).

### Collection of Information

This rule would call 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 this rule does not have implications for federalism.