

Dated: December 7, 2007.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG-2007-0148]

Drawbridge Operation Regulations; York River, at Yorktown, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Coleman Memorial Bridge, at mile 7.0, across York River at Yorktown, VA. This deviation allows the drawbridge to remain closed-to-navigation beginning at 7 a.m. on Saturday, December 15, 2007, until and including 11:59 p.m. on Saturday, December 22, 2007 and from 7 a.m. on Monday, on December 24, 2007 until and including 11:59 p.m. on Monday, December 31, 2007, to facilitate mechanical repairs to the operating machinery of the swing span.

DATES: This deviation is effective from 7 a.m. on December 15, 2007 to 11:59 p.m. on December 31, 2007.

ADDRESSES: Materials referred to in this document are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704-5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398-6222. Commander (dpb), Fifth Coast Guard District maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Bill H. Brazier, Bridge Management Specialist, Fifth Coast Guard District, at (757) 398-6422.

SUPPLEMENTARY INFORMATION: The Coleman Memorial Bridge, a swing-type drawbridge, has a vertical clearance in the closed position to vessels of 60 feet, above mean high water.

The contractor, on behalf of the Commonwealth of Virginia Department of Transportation (VDOT)—the bridge owner, has requested a temporary deviation from the current operating

regulations set out in 33 CFR Part 117.1025 to close the swing bridge to navigation to perform necessary mechanical repairs to the swing span assembly. The repairs will consist of removing and replacing the balance wheels and bronze bushings on the north and south swing spans.

To facilitate the repairs, the Coleman Memorial Bridge will be maintained in the closed-to-navigation position beginning at 7 a.m. on Saturday, December 15, 2007, until and including 11:59 p.m. on Saturday, December 22, 2007 and from 7 a.m. on Monday, December 24, 2007, until and including 11:59 p.m. on Monday, December 31, 2007.

The Coast Guard has informed the known users of the waterway of the closure periods for the bridge so that these vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: December 7, 2007.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. CGD 13-07-049]

RIN 1625-AA00

Safety Zone: Lower Cowlitz River Dredging Operation; Longview, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Cowlitz River, in the vicinity of Cottonwood Island at the entrance of the Cowlitz River extending up the Cowlitz River 1.5 river miles. The Captain of the Port, Portland, Oregon is taking this action to safeguard individuals and vessels from safety hazards associated with dredging operations. Entry into this safety zone is prohibited unless authorized by Captain of the Port, Portland or the Master of the on-scene dredge vessel.

DATES: This rule is effective from Monday, November 12, 2007 8 a.m. through Friday, February 29, 2008 at 5 p.m.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [CGD13-07-049] and are available for inspection or copying at U. S. Coast Guard Sector Portland, 6767 North Basin Ave., Portland, Oregon 97217 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Josh Lehner, c/o Captain of the Port Portland, 6767 N. Basin Ave., Portland, Oregon 97217 at 503-240-9301.

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 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard did not receive notice of this operation until 12 days prior to the beginning of the operation. The dredging operation will involve multiple dredges, floating and submerged pipelines and other potential navigation hazards from the west bank of the Old Cowlitz River to the northwest tip of Cottonwood Island and 1.5 river miles up the Cowlitz River including the mouth of Carrols Channel and the Old Mouth Cowlitz. The pipeline and associated dredge gear will pose a hazard to navigation due to its location blocking the channel.

If normal notice and comment procedures were followed, this rule would not become effective until after the dates of the event. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Background and Purpose

The Coast Guard is establishing a temporary safety zone regulation to allow for safe dredging operations. This operation is necessary for flood control on the Cowlitz River. Silt has built up at the lower end of the Cowlitz River causing an increased risk of flooding in the vicinity of Kelso, Longview, and Castle Rock, WA. This safety zone will be in effect during the time of Monday, November 12, 2007 to Friday, February 29, 2008 while there is dredge gear in the water. This safety zone will be enforced by the Captain the Port,

Portland or his designated representative. Entry into this Safety Zone is prohibited unless authorized by the Captain of the Port, his designated representative, or the Master of the on-scene dredge vessel. Transit through the Safety Zone is prohibited without an escort from a vessel associated with the on-scene dredge operations or a representative of the Captain of the Port. To request an escort to transit the Safety Zone contact the on-scene dredge Master on VHF-FM channel 16 or 13 or via search light or sound making device 30 minutes in advance of desired transit. The Captain of the Port may be assisted by other federal and local agencies in the enforcement of this zone.

Discussion of Rule

This rule, for safety concerns, will control individuals and vessel movement in a regulated area surrounding the dredging operation. Due to safety concerns and likely delays, entry into this zone is prohibited unless authorized by the Captain of the Port, his designated representative, or the Master of the on-scene dredge vessel. Boaters must request and receive authorization to enter the safety zone from the Captain of the Port, his designated representative, or the Master of the on-scene dredge and be escorted by a vessel associated with the dredge operations or by a representative of the Captain of the Port. These measures are taken due to the significant hazard to navigation presented by suspended anchor wires tied off to the shoreline. Dredge gear and submerged pipelines also present a hazard to navigation in and under the waters in the lower area of the Cowlitz River.

Regulatory Evaluation

This 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 has not reviewed it under that Order. The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of the DHS is unnecessary. This expectation is based on the fact that this rule will be in effect for the minimum time necessary to safely conduct the dredging operation. While this rule is in effect, traffic will be allowed to pass through the zone with authorization and escort of the Master of the on-scene dredge or a designated representative of the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have 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 the designated area at the corresponding time as drafted in this rule. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Traffic will be allowed to pass through the zone with the authorization and escort of the Master of the on-scene dredge or a designated representative of the Captain of the Port. This portion of the river is not typically used by commercial boating entities and most of the traffic expected in this area is generally recreational in nature and will occur on weekends when dredge operations will be suspended. In addition the location of dredging operations is below the area used by drift boat fishermen. Before the effective period, we will issue maritime advisories widely available to users of the river. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity 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 what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental

jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. 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 rule calls 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 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 will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This 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 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 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 create 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.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 (34)(g), of the Instruction, from further environmental documentation because it establishes a safety zone. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" will be available in the docket 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 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. A temporary section 165.T13–043 is added to read as follows:

§ 165.T13–043 Safety Zone: Lower Cowlitz River Dredging Operation in the Captain of the Port Portland Zone.

(a) *Safety Zone.* The following area is designated a safety zone—

(1) *Location.* The waters encompassed by the following points: 46° 05'50"N 122° 55'52"W southeastward to 46° 05'30"N 122° 55'11"W turning northwest to 46° 05'44"N 122° 54'19"W continuing along the southeasterly bank of the Cowlitz River to 46° 06'34"N 122° 53'27"W crossing the river bank to bank to 46° 06'33"N 122° 53'35"W following the northerly bank of the Cowlitz River back to the point of origin. This safety zone will include the entrance to Carrolls Channel and the Old Mouth Cowlitz.

(2) *Effective time and date.* 8 a.m. on Monday, November 12, 2007 to 5 p.m. on Friday, February 29, 2008.

(b) *Regulations.* (1) Entry into this Safety Zone is prohibited unless authorized by the Captain of the Port, his designated representative, or the Master of the on-scene dredge vessel.

(2) Transit through the Safety Zone is prohibited without an escort from a

vessel associated with the on-scene dredge operations or a representative of the Captain of the Port.

(3) To request an escort to transit the Safety Zone contact the on-scene dredge Master on VHF–FM channel 16 or 13 or via search light or sound making device 30 minutes in advance of desired transit.

Dated: November 9, 2007.

Russell C. Proctor,
CDR, U.S. Coast Guard, Acting Captain of the Port, Portland, OR.

[FR Doc. E7–24768 Filed 12–19–07; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 383

[Docket No. 2005–5 CRB DTNSRA]

Digital Performance Right in Sound Recordings and Ephemeral Recordings for a New Subscription Service

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges are publishing final regulations that set the rates and terms for the use of sound recordings in transmissions made by new subscription services and for the making of ephemeral recordings necessary for the facilitation of such transmissions for the period commencing from the inception of the new subscription service through December 31, 2010.

DATES: These regulations become effective on January 22, 2008.

FOR FURTHER INFORMATION CONTACT: Richard Strasser, Senior Attorney, or Gina Giuffreda, Attorney Advisor, by telephone at (202) 707–7658 or e-mail crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

In 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995 ("DPRA"), Public Law No. 104–39, which created an exclusive right for copyright owners of sound recordings subject to certain limitations, to perform publicly the sound recordings by means of certain digital audio transmissions. Among the limitations on the performance right was the creation of a new compulsory license for nonexempt noninteractive digital subscription transmissions. 17 U.S.C. 114(f).